

REPORT
OF THE
PROCEEDINGS AND DEBATES
IN THE
CONVENTION
TO
REVISE THE CONSTITUTION
OF THE
STATE OF MICHIGAN.
1850.

LANSING:
R. W. INGALS, STATE PRINTER.
1850.

JOINT RESOLUTIONS

Recommending a Revision of the Constitution of the State of Michigan.

Whereas, In the opinion of this Legislature, the time has arrived when a general revision of the constitution of the State of Michigan is necessary for the well-being and better government of the inhabitants of the State; and

Whereas, By the second section of article thirteen of the said constitution, it is made the duty of the Senate and House of Representatives in such case, to recommend to the electors, at the next election for members of the Legislature, to vote for or against a Convention to be called for the purpose of revising said instrument; therefore

Resolved, by the Senate and House of Representatives of the State of Michigan, That we do hereby recommend to the qualified electors of the State of Michigan, at the next general election for members of the Legislature, to vote for or against a Convention, to be called for the purpose of making a general revision of the constitution of this State.

Resolved, That the above recommendation shall be submitted to the people at the next general election, and those voting in favor of calling a Convention shall have written or printed on their ballots, the words "For a Convention;" and those voting against such Convention shall have written or printed on their ballots the words "Against a Convention;" which votes shall be canvassed and returned in the same manner, as near as may be, as required in section twenty-five, chapter seven, and sections twelve and thirteen, of chapter nine of the revised statutes of eighteen hundred and forty-six; and the Secretary of State shall report the result to the next Legislature thereafter.

Resolved, That the Secretary of State shall cause these resolutions to be published in the State paper for three months in succession next previous to the next general election for members of the Legislature.

Approved March 12, 1849.

STATEMENT OF VOTES

GIVEN at the General Election held within the State of Michigan on Tuesday the sixth day of November, in the year of our Lord one thousand eight hundred and forty-nine, for and against a Convention to be called for the purpose of making a general revision of the Constitution of this State, recommended by the Legislature thereof for the year 1849, pursuant to section two of article thirteen of the Constitution of this State, by Joint Resolution No. 21, approved March 12th, 1849.

COUNTIES.	For a Convention.	Against a Convention.	Bl'ks.	Total.
Allegan,	482	110		592
Barry,	745	0		745
Berrien,	824	46		870
Branch,	635	175		810
Calhoun,	2,109	107		2,216
Cass,	1,002	268		1,270
Chippewa,	16	1		17
Clinton,	91	355		446
Eaton,	508	283		791
Genesee,	860	250		1,110
Hillsdale,	1,779	48		1,827
Houghton,	Not Returned.			
Ingham,	539	361		900
Ionia,	352	229		581
Jackson,	2,653	119		2,772
Kalamazoo,	1,019	136		1,155
Kent,	1,179	28		1,207
Lapeer,	422	114		536
Lenawee,	1,734	98		1,832
Livingston,	1,523	142		1,665
Mackinac,	87	1		88
Macomb,	1,106	126		1,232
Monroe,	460	180		640
Oakland,	2,640	299		2,939
Ottawa,	314	17		331
Saginaw,	177	1		178
Shiawassee,	701	113		814
St. Clair,	911	40		951
St. Joseph,	1,222	177		1,399
Van Buren,	792	32		824
Washtenaw,	3,095	42		3,137
Wayne,	3,216	197	3	3,416
Total,	33,193	4,095	3	37,291

The whole number of votes given at said election for and against a Convention to be called for the purpose of making a general revision of the Constitution of said State of Michigan, was thirty-seven thousand two hundred and ninety-one; of which votes, thirty-three thousand one hundred and ninety-three were given for the said Convention;

four thousand and ninety-five were given against the said Convention; and three of said votes were blanks.

We certify the foregoing to be a correct statement of the votes given in the State of Michigan for and against the said Convention, submitted to the people of said State, at the said election, holden on the sixth day of November, in the year of our Lord one thousand eight hundred and forty-nine, as appears from the canvass and examination of the statements of votes given in the several counties, received by the Secretary of State from the respective county clerks, duly certified under their hands and seals of office. In witness whereof we have hereunto set our names at the office of the Secretary of State, this fifteenth day of December, in the year of our Lord one thousand eight hundred and forty-nine.

GEO. W. PECK, Secretary of State,
JOHN J. ADAM, Auditor General,
GEO. B. COOPER, State Treasurer,
Board of State Canvassers.

State of Michigan, ss:

We, the undersigned, having, in pursuance of law, this fifteenth day of December, A. D. one thousand eight hundred and forty-nine, at the office of the Secretary of State, examined and canvassed the statements received by the said Secretary, of the votes given in the several counties at the general election holden on the sixth day of November, A. D. one thousand eight hundred and forty-nine, for and against a Convention to be called for the purpose of making a general revision of the Constitution of this State, and made out a correct statement of the whole number of votes given at such election for and against said Convention, and certified such statement to be correct, and subscribed our names thereto; and it appearing from such canvass and statement that the greatest number of votes was given in favor of said Convention, do hereby determine that said Convention has been duly called according to the provisions of the second section of the thirteenth article of the Constitution of said State.

GEO. W. PECK, Secretary of State,
JOHN J. ADAM, Auditor General,
GEO. B. COOPER, State Treasurer,
Board of State Canvassers.

AN ACT

To provide for the time, place and manner of holding the Convention to Revise the Constitution, and for the election of Delegates thereto.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Michigan*, That an election for delegates to the Convention to revise the constitution of the State of Michigan, shall be held on the first Monday of May, in the year of our Lord one thousand eight hundred and fifty. The township board of elections in the several townships, and the inspectors of elections in the different wards and cities of this State, shall, upon the day above mentioned, open the polls of their respective townships, wards or cities, in the manner prescribed by law for the election of Representatives to the State Legislature, at the same place at which the polls may be opened for the election of township, ward and city officers at the next spring election, and shall receive the votes of all electors who are qualified by law to elect Representatives to the State Legislature. The electors shall be entitled to vote for as many persons as shall be entitled to a seat in said Convention from their several counties or districts by the provisions of this act, which votes shall be taken in the same manner as is now provided by law in elections for Representatives to the State Legislature.

SEC. 2. The Secretary of State is hereby required to publish the notice of this election, and send copies thereof to the sheriffs of the different counties and districts in this State, which said copies shall be sent to said sheriffs at least three weeks before the day appointed for holding said election. Said notice shall contain the number of delegates and their apportionment to each county and district, and the Secretary of State shall cause said notice to be published in the State paper and in a paper published in each of the counties in this State, (where a paper is published,) three weeks in succession, previous to the day of holding the election. The copies of said notice to be delivered to the sheriffs, as aforesaid, shall contain the number of delegates to which the counties or districts to which such sheriffs belong, are respectively entitled; and the said sheriffs shall, immediately on the receipt of said notice, transmit a copy of the substance thereof to each of the township clerks in their respective counties or districts; and the township clerks shall, at least one week prior to the day appointed for said election, post up copies of such notice in three of the most public places in their respective townships.

SEC. 3. The number of delegates in such Convention shall be one hundred, to be apportioned among the several counties and representative districts in this State as follows, viz: the county of Allegan, one; Barry, one; Berrien, three; Branch, three; Calhoun, five; Cass, three; Chippewa and the counties attached thereto for representative purposes, one; Clinton and the counties attached thereto for judicial purposes, one; Eaton, two; Genesee, three; Hillsdale, four; Ingham, two; Ionia and the counties attached thereto for judicial or that may be attached for representative purposes, two; Jackson, five; Kalamazoo, three; Kent and Ottawa and the counties attached to Kent and Ottawa for judicial purposes, three; Lapeer, two; Lenawee, seven; Livingston, four; Mackinac, one; Macomb, four; Monroe, four; Oakland, nine; Saginaw and the counties attached thereto for judicial purposes, one; Shiawassee, one; St. Clair and the counties attached thereto for representative and judicial purposes, three; St. Joseph, three; Van Buren, one; Washtenaw, eight; Wayne, ten.

SEC. 4. The several township boards of election, and the inspectors of election of the different wards and cities, shall canvass and return the votes given at said election in the same manner as is now provided by law for the canvass and return of votes given at the election of Representatives; and the county and district boards of canvassers shall be appointed in the same manner, and shall meet and canvass the votes in their respective counties and

districts in the same manner and in the same space of time after said election is held as is now provided for by law in the appointment of county and district canvassers, and the meeting and canvassing of votes for Representatives; and certificates of election shall be given to the persons entitled thereto by the same officer and in the same manner as Representatives now receive the same; and the county clerks of their respective counties and districts shall, within five days after such canvass, transmit to the Secretary of State certified copies, under their hands and seals of office, of such canvass in their respective counties and districts; and in case of contested elections to the Convention, the Convention shall have the same power to judge of the qualifications, return and election of its delegates as the Legislature of this State now have.

SEC. 5. The delegates chosen shall meet in Convention at the capitol in Lansing, on the first Monday of June, one thousand eight hundred and fifty. They shall be judges of their own privileges and elections, and the delegates thereof shall have the same privileges to which Representatives to the State Legislature are entitled, and shall by ballot appoint one of their number president, and may appoint one or more secretaries, a sergeant-at-arms, one or more reporters, and such messengers as their convenience shall require; and such delegates of the Convention shall be entitled to the same mileage for travel, and the same per diem allowance as is now paid to members of the Legislature; and the president, secretaries, reporters, sergeant-at-arms, door-keepers and messengers shall receive such compensation as the Convention shall see fit to allow. The amount due each person shall be certified to by the principal secretary of the Convention, and countersigned by the president; and the Treasurer of the State shall pay the certificates so certified to and countersigned, out of any moneys in the treasury not otherwise appropriated; and the said Convention may furnish for its own use such stationery as it may require, as is usual for legislative bodies, and the amount due therefor shall be certified to and paid for in the same manner as the delegates and officers are paid. And it shall be the duty of the Secretary of State to attend said Convention at the opening thereof; and he and all public officers shall furnish such Convention with all such papers, statements, books or other public documents in their possession, as the said Convention shall order or require. And the State printer shall perform the printing required to be done by said Convention, at such times and in such manner as they shall direct, and said printer shall receive the same compensation and in the same manner as now provided by law for compensation and payment for legislative printing; and in case the said printer shall refuse or neglect to perform the duties aforesaid, the said Convention may appoint a printer to perform said duties, who shall receive the same compensation and in the same manner as is now provided by law for legislative printing.

SEC. 6. The proceedings of the said Convention shall be filed in the office of the Secretary of State, and the revision of the Constitution agreed to by said Convention shall be recorded in his office. The said revision shall be submitted by the Convention to the people, for their adoption or rejection, at such time and in such manner as the Convention may prescribe.

SEC. 7. All wilful and corrupt false swearing in taking any of the oaths prescribed by this act, or by the laws of this State made applicable to this act, or any other mode or form in carrying into effect this act, shall be deemed perjury, and shall be punished in the manner now prescribed by law for wilful and corrupt perjury.

SEC. 8. This act shall take effect and be in force from and after its passage.

Approved March 9, 1850.

MEMBERS AND OFFICERS
OF THE
CONVENTION TO REVISE THE CONSTITUTION, 1850.

HON. DANIEL GOODWIN, PRESIDENT.

NAMES.	COUNTY.	POST OFFICE.	AGE.	CONDITION IN LIFE.	NATIVITY.	PROFESSION.
Adams, P. R.,	Lenawee,	Tecumseh,	45	Married,	Pennsylvania,	Farmer.
Adams, Wales,	Branch,	Bronson,	46	Widower,	Massachusetts,	Farmer.
Alvord, H. J.,	Wayne,	Trenton,	39	Married,	Massachusetts,	Physician.
Anderson, R. H.,	Jackson,	Rives,	39	do	Ireland,	Farmer.
Arzeno, A. M.,	Monroe,	Newport,	41	do	New-York,	Farmer.
Axford, W.,	Oakland,	Clarkston,	36	do	Upper Canada,	Merchant.
Backus, H. T.,	Wayne,	Detroit,	35	do	Connecticut,	Lawyer.
Bagg, J. H.,	Wayne,	Detroit,	51	do	Massachusetts,	Miscellaneous.
Barnard, Eli,	Livingston,	Howell,	42	do	New-York,	Farmer.
Bartow, H.,	Ionia,	Maple,	43	Widower,	New-York,	Farmer.
Bartow, John,	Genesee,	Flint,	37	Married,	New-York,	Lawyer.
Beardsley, C. E.,	Eaton,	Bellevue,	44	do	New Brunswick,	Lawyer.
Beeson, Jacob,	Berrien,	Niles,	42	do	Pennsylvania,	Merchant.
Britain, Calvin,	Berrien,	St. Joseph,	50	Single,	New-York,	Farmer.
Brown, Alvarado,	Branch,	Quincy,	41	Married,	New-York,	Farmer.
Brown, Ammon,	Wayne,	Nankin,	53	do	New-York,	Farmer.
Brown, Asahel,	Branch,	Algaussee,	47	do	New-Jersey,	Farmer.
Burns, J. D.,	Eaton,	Charlotte,	36	do	Ohio,	Merchant.
Bush, C. P.,	Ingham,	Laus ng,	42	do	New York,	Farmer.
Butterfield, J. L.,	Jackson,	Brooklyn,	35	do	New-York,	Miller.
Carr, W. S.,	Washtenaw,	Manchester,	42	do	New-York,	Farmer.
Chandler, C.,	Lenawee,	Clinton,	44	do	New-York,	Farmer.
Chapel, C. W.,	Macomb,	Utica,	34	do	New-York,	Miller.
Choate, Emerson,	Monroe,	Monroe,	42	do	North Carolina,	Farmer.
Church, Thos. B.,	Kent,	Grand Rapids,	33	do	Massachusetts,	Lawyer.
Clark, J.,	St. Clair,	China,	50	do	Maine,	Farmer.
Clark, Samuel,	Kalamazoo,	Kalamazoo,	50	do	New-York,	Farmer.
Comstock, A. J.,	Lenawee,	Adrian,	47	do	New-York,	Farmer.
Conner, W. O.,	St. Joseph,	Centreville,	47	do	N. Hampshire,	Farmer.
Cook, John P.,	Hillsdale,	Hillsdale,	38	do	New-York,	Farmer.
Cornell, J. G.,	Jackson,	Spring Arbor,	59	do	New-York,	Physician.
Crory, Isaac E.,	Calhoun,	Marshall,	45	do	Connecticut,	Lawyer.
Crouse, Robert,	Livingston,	Hartland,	37	do	New-York,	Merchant.
Danforth, E. B.,	Ingham,	Lansing,	43	do	Massachusetts,	Farmer, &c.
Daniels, Ebenezer,	Lenawee,	Medina,	47	do	New-York,	Merchant, &c.
Desnoyers, Peter,	Wayne,	Detroit,	50	do	Michigan,	Farmer.
Dimond, R. B.,	St. Clair,	Lexington,	49	do	Lower Canada,	Farmer.
Eastman, Timothy,	Ottawa,	Polkton,	52	do	New Hampshire,	Physician.
Eaton, E. C.,	Wayne,	Bellville,	46	do	New-York,	Farmer.
Edmunds, J. M.,	Washtenaw,	Ypsilanti,	39	do	New-York,	Miller.
Fralick, Henry,	Wayne,	Plymouth,	38	do	New York,	Merchant.
Gale, Elbridge G.,	Genesee,	Davisonville,	39	do	Massachusetts,	Farmer.
Gardiner, E. P.,	Washtenaw,	Ann Arbor,	51	do	Connecticut,	Printer.
Gibson, John,	Wayne,	Detroit,	41	do	New York,	Mechanic.
Goodwin, Daniel,	Wayne,	Detroit,	50	do	New-York,	Lawyer.
Graham, J.,	Hillsdale,	Jonesville,	39	do	Connecticut,	Farmer.
Green, Nelson,	Lenawee,	Pontion Mills,	47	do	New-York,	Farmer.
Hanscom, A. H.,	Oakland,	Pontiac,	32	do	Maine,	Lawyer.
Hart, N. H.,	Lapeer,	Lapeer,	36	do	Connecticut,	Lawyer.
Harvey, G. C.,	Lenawee,	Palmyra,	43	do	Massachusetts,	Farmer.
Hascall, Volney,	Kalamazoo,	Kalamazoo,	30	do	New-York,	Printer.
Hathaway, H.,	Macomb,	Armada,	51	do	New-York,	Farmer.
Hixon, Daniel,	Washtenaw,	Clinton,	47	do	New-York,	Farmer.
Kingsley, James,	Washtenaw,	Ann Arbor,	50	do	Connecticut,	Lawyer.
Kinne, Daniel,	Hillsdale,	Reading,	36	do	Vermont,	Farmer.
Leach, Dewitt C.,	Genesee,	Mundy,	27	do	New-York,	Teacher.
Lee, Daniel S.,	Livingston,	Brighion,	42	do	New-York,	Merchant.

MEMBERS AND OFFICERS—CONTINUED.

NAMES.	COUNTY.	POST OFFICE.	AGE.	CONDITION IN LIFE.	NATIVITY.	PROFESSION.
Lovell, Cyrus,	Ionia,	Ionia,	45	Married,	Vermont,	Lawyer.
Marvin, H. B.,	Monroe,	Monroe,	34	do	New-York,	Farmer
Mason, Lorenzo M.,	St. Clair,	Port Huron,	40	do	Vermont,	Lawyer.
McClelland, R.,	Monroe,	Monroe,	42	do	Pennsylvania,	Lawyer.
McLeod, Wm. N.,	Mackinac,	Mackinac,	33	Single,	New-York,	Lawyer.
Moore, E. S.,	St. Joseph,	Th. ee Rivers,	45	Married,	New-Jersey,	Merchant.
Morrison, W. V.,	Calhoun,	Albion,	33	do	New-York,	Merchant.
Mosher, John,	Hillsdale,	Somerset,	60	do	New-York,	Physician.
Mowry, Z. M.,	Oakland,	Milford,	45	do	Massachusetts,	Physician.
Newberry, Seneca,	Oakland,	Rochester,	47	Widower,	Connecticut,	Farmer.
O'Brien, Morgan,	Washtenaw,	Ann Arbor,	36	Married,	Ireland,	Farmer.
Orr, J. W. T.,	Barry,	Hastings,	34	do	New-York,	Farmer.
Pierce, J. D.,	Calhoun,	Ceresco,	53	do	New Hampshire,	Clergyman.
Pierce, Nathan,	Calhoun,	Marengo,	59	do	Massachusetts,	Farmer.
Prevost, F. J.,	Shiawassee,	Byron,	36	do	New-York,	Merchant.
Raynald, E.,	Oakland,	Birmingham,	45	do	Vermont,	Physician.
Redfield, George,	Cass,	Adamsville,	52	Widower,	Connecticut,	Farmer.
Roberts, E. J.,	Houghton,	Eagle River,	52	Married,	New-York,	Printer.
Robinson, E. S.,	Jackson,	Grass Lake,	49	do	New-York,	Farmer.
Robertson, A. S.,	Macomb,	Mt. Clemens,	27	do	England,	Lawyer.
Robinson, Rix,	Kent,	Ada,	58	do	Massachusetts,	Farmer.
Robinson, M.,	Cass,	Summerville,	53	do	Virginia,	Farmer.
Skinner, E. M.,	Washtenaw,	Ypsilanti,	51	do	Connecticut,	Lawyer.
Storey, Wilbur F.,	Jackson,	Jackson,	30	do	Vermont,	Merchant.
Sturgis, D.,	Clinton,	Dewitt,	42	do	Upper Canada,	Miller.
Soule, Milo,	Calhoun,	Marengo,	45	do	New-York,	Farmer.
Sullivan, James,	Cass,	Cassopolis,	38	do	New Hampshire,	Lawyer.
Sutherland, J. G.,	Saginaw,	Saginaw City,	24	do	New-York,	Lawyer.
Tiffany, A. R.,	Lenawee,	Adrian,	53	do	Upper Canada,	Lawyer.
Town, Oka,	Allegan,	Otsego,	43	do	New Hampshire,	Farmer.
Van Valkenburgh, J.,	Oakland,	White Lake,	54	do	New-York,	Farmer.
Wait, B. W.,	Washtenaw,	Scio,	38	do	New-York,	Farmer.
Walker, D. C.,	Macomb,	Romeo,	38	do	Vermont,	Lawyer.
Warden, Robert,	Livingston,	Green Oak,	35	do	Scotland,	Farmer.
Webster, James,	Oakland,	Groveland,	40	do	Connecticut,	Farmer.
Wells, H. G.,	Kalamazoo,	Schoolcraft,	39	do	Ohio,	County Judge.
White, J. R.,	Lapeer,	Lapeer,	43	do	Massachusetts,	Lawyer.
Whipple, C. W.,	Berrien,	Niles,	42	Widower,	New-York,	Lawyer.
Whittemore, G. O.,	Oakland,	Pontiac,	50	Married,	Vermont,	Farmer.
Williams, Joseph R.,	St. Joseph,	Constantine,	41	do	Massachusetts,	Miller.
Willard, Isaac W.,	Van Buren,	Paw Paw,	46	Single,	Massachusetts,	Farmer.
Witherell, B. F. H.,	Wayne,	Detroit,	47	Married,	Vermont,	Lawyer.
Woodman, Elias,	Oakland,	Novi,	33	do	New-York,	Farmer.

SECRETARIES—John Swegles, Jr., H. S. Roberts, Chas. Hascall.

REPORTERS—C. J. Fox, Joseph Coates, William Coates, Martin Mahon.

SERGEANT-AT-ARMS—David Hubbard, Jr.

DOORKEEPER—E. C. Merrifield.

MESSENGERS—Moses H. Goodrich, Daniel Bloss, William C. Stockton, Charles E. Toan.

STANDING COMMITTEES OF THE CONVENTION.

On Supplies and Expenditures—Messrs. Hanscom, Danforth, Beeson, Chapel and Eaton.

On Printing—Messrs. Gardiner, Britain, Roberts, Bush and Hascall.

On Bill of Rights—Messrs. S. Clark, Rix Robinson, Gardiner, Gibson, Webster, P. R. Adams and Prevost.

On the Division of the Powers of Government—Messrs. J. Clark, Newberry, Hart, Barnard and Asahel Brown.

On Impeachments and Removals from Office—Messrs. Sullivan, J. Clark, W. Adams, Beardsley and P. R. Adams.

On the Elective Franchise—Messrs. Whittemore, Alvord, Hascall, Lovell and Wait.

On the Executive Department—Messrs. Whipple, Skinner, Mowry, Eaton, M. Robinson, Anderson, Sutherland, N. Pierce and Daniels.

On the Schedule—Messrs. Mason, Hart, Robertson, Moore, Alvord, Wells and Backus.

On the Legislative Department—Messrs. McClelland, E. S. Robinson, Beeson, Bagg, Soule, Gale, Crouse, Alvarado Brown and Chandler.

On the Judicial Department—Messrs. Crary, S. Clark, Church, Hanscom, Sullivan, Walker, Kingsley, Tiffany, Backus, Butterfield, Hixon, Comstock, Cook, Asahel Brown, Hathaway, Mowry, Lee, Town and Bagg.

On County Officers and County Government—Messrs. Rix Robinson, Cornell, Ammon Brown, Conner, Hixon, Green and Wait.

On Township Officers and Township Government—Messrs. Bush, Eaton, Chapel, Town, Beeson, Harvey and Leach.

On the Organization of the Government of Cities and Villages—Messrs. J. Bartow, Skinner, Marvin, Witherell and Raynale.

On the Militia—Messrs. Hanscom, Arzeno, Dimond, O'Brien, White, Anderson and Daniels.

On Education—Messrs. Walker, Van Valkenburgh, Butterfield, Eastman, Desnoyers, J. D. Pierce, Barnard, Williams and Edmunds.

On Finance and Taxation—Messrs. Britain, Bush, Fralick, Axford, Morrison, Burns, Choate, Wells and Chandler.

On Banking and other Corporations, except Municipal—Messrs. Cook, Raynale, Hascall, Danforth, Gardiner, Crouse, Moore, White and Comstock.

On Salaries—Messrs. Storey, Van Valkenburgh, Mason, Desnoyers, Eastman, Morrison and Williams.

On the Seat of Government—Messrs. Kingsley, Axford, Danforth, Storey and Willard.

On Exemptions and the Rights of Married Women—Messrs. J. D. Pierce, Newberry, Lee, Chapel, Fralick, H. Bartow and Tiffany.

On the Punishment of Crimes—Messrs. Witherell, Sturgis, M. Robinson, Woodman, Warden, Kinne and Prevost.

On Miscellaneous Provisions—Messrs. Church, Whittemore, Sutherland, Alvarado Brown, Marvin, Dimond and Carr.

On the Mode of Amending and Revising the Constitution—Messrs. McLeod, Mosher, Webster, Gibson and Harvey.

On the Arrangement and Phraseology of the Constitution—Messrs. Crary, McClelland, Whipple, S. Clark, Gardiner, Walker, Redfield, Britain, Wells, Tiffany and Williams.

On the Government and Judicial Policy of the Upper Peninsula—Messrs. Roberts, McLeod, Cornell, Willard, Hanscom, Edmunds, Gale, Robertson and Graham.

On State Officers, Except the Executive—Messrs. Redfield, Roberts, Mosher, Orr and Carr.

RULES OF THE CONVENTION.

RULE 1. The President shall take the chair at the time to which the Convention stands adjourned, and the Convention shall then be called to order and the roll of the members called.

RULE 2. Upon the appearance of a quorum, the journal of the preceding day shall be corrected, and when demanded by a majority, shall be read by the Secretary.

RULE 3. The President shall preserve order and decorum, and shall decide questions of order, subject to an appeal to the Convention.

RULE 4. The President shall vote on all questions taken by yeas and nays, (except on appeals from his own decisions.)

RULE 5. When the Convention adjourns, the members shall keep their seats until the President announces the adjournment.

RULE 6. Every member, previous to his speaking, shall rise from his seat and address himself to the President.

RULE 7. When two or more members rise at once, the President shall designate the member who is first to speak.

RULE 8. No member shall speak more than twice on the same question, nor more than one hour at any one time without leave of the Convention, nor more than once until every member who chooses to speak shall have spoken.

RULE 9. Every motion shall be reduced to writing, if required by the President or any member, and shall be stated by the President before debate.

RULE 10. After a motion shall be stated by the President, it shall be deemed to be in possession of the Convention; but may be withdrawn at any time before decision or amendment; but another member may renew the same.

RULE 11. When a question is under debate, no motion shall be received but to adjourn, for the previous question, to lay on the table, to postpone indefinitely, to postpone to a day certain, to commit or to amend; which several motions shall have precedence in the order in which they stand arranged.

RULE 12. A motion to adjourn shall always be in order; that and the motion to lay on the table shall be decided without debate.

RULE 13. The previous question shall be in this form: "Shall the main question be now put?" And if demanded by a majority of the members present, its effect shall be to put an end to all debate, and bring the Convention to a direct vote upon amendments, if any are pending, and then upon the main question.

RULE 14. All incidental questions of order, arising after a motion is made for the previous question, during the pendency of such motion, or after the Convention shall have determined that the main question shall now be put, shall be decided, whether on appeal or otherwise, without debate.

RULE 15. Petitions, memorials and other papers addressed to the Convention, shall be presented by the President, or a member in his place.

RULE 16. Every member who shall be present when a question is last stated from the Chair, and no other, shall vote for or against the same, unless the Convention shall excuse him, in which case he shall not vote.

RULE 17. When the President is putting the question, no member shall walk out or across the house; nor when a member is speaking shall any person entertain any private discourse, or pass between him and the Chair.

RULE 18. If the question in debate contains several points, any member may have the same divided.

RULE 19. A member called to order shall immediately set down, unless permitted to explain; and the Convention, if appealed to, shall decide the case; if there be no appeal the decision of the Chair shall be submitted to. On an ap-

peal, no member shall speak more than once, without leave of the Convention; and when a member is called to order for offensive language, there shall be no debate.

RULE 20. In forming a committee of the whole, the President shall appoint a chairman to preside.

RULE 21. Propositions committed to a committee of the whole, shall first be read through by the Secretary, and then read and debated by clauses. All amendments shall be entered on a separate piece of paper, and so reported to the Convention by the chairman, standing in his place.

RULE 22. All questions, whether in committee or in the Convention, shall be put in the order they were moved, except in the case of privileged questions; and in filling up blanks, the largest sum and the longest time shall be first put.

RULE 23. No motion for reconsideration shall be in order, unless within three days after the decision proposed to be reconsidered took place. A motion for reconsideration being put and lost, (except in case of privileged motions,) shall not be renewed on the same day.

RULE 24. Any member having voted with the majority, may be at liberty to move for a reconsideration; and a motion for reconsideration shall be decided by a majority of votes.

RULE 25. The rules of the Convention shall be observed in committee of the whole, so far as they may be applicable, except that the yeas and nays shall not be called, the previous question enforced, nor the time of speaking limited.

RULE 26. A motion that the committee rise shall always be in order, and shall be decided without debate.

RULE 27. In all cases where an order, resolution or motion shall be entered on the journals of the Convention, the name of the member moving the same shall be entered on the journals.

RULE 28. On the meeting of the Convention, after correcting the journal of the preceding day, the order of business shall be as follows: 1st, presentation of petitions; 2d, reports of standing committees--reports of select committees; 3d, motions, resolutions and notices; 4th, reading resolutions; 5th, unfinished business of the preceding day; 6th, special orders of the day; 7th, general orders of the day.

RULE 29. When the Convention have arrived at the general orders of the day, they shall go into committee of the whole upon such orders, or a particular order designated by a vote of the Convention; and no other business shall be in order until the whole are considered or passed, or the committee rise; and unless a particular subject is ordered up, the committee of the whole shall consider, act upon, or pass the general orders, according to the order of their reference.

RULE 30. No rule of the Convention shall be suspended, altered or amended, without the concurrence of two-thirds of the members present.

RULE 31. Upon the call of the Convention, the names of the members shall be called by the Secretary, and the absentees noted; but no excuse shall be made until the Convention shall be fully called over; then the absentees shall be called over the second time, and if still absent, excuses are to be heard; and if no excuse, or insufficient excuse be made, the absentees may, by order of those present, if there are fifteen members present, be taken into custody, wherever to be found, by the Sergeant-at-Arms.

RULE 32. The President may leave the chair and appoint a member to preside, but not for a longer time than one day, except by leave of the Convention.

RULE 33. The rules of parliamentary practice comprised in Jefferson's Manual, shall govern the Convention in all cases to which they are applicable, and in which they are not inconsistent with the standing rules and orders of this Convention.

RULE 34. The ayes and noes may be called for by ten members.

RULE 35. A majority of the members elected shall constitute a quorum for the transaction of business; but a less number may adjourn.

RULE 36. A journal of the proceedings in committee of the whole shall be kept.

RULE 37. Every article shall receive three several readings previous to its being passed; and the second and third readings shall be on different days; and the third

reading shall be on a day subsequent to that in which it has passed a committee of the whole, unless the Convention, by a vote of two-thirds of the members present, shall direct otherwise.

RULE 38. No article shall be committed or amended unless it has been twice read.

RULE 39. Every article, when read a third time and passed, shall be referred to the committee on arrangement and phraseology.

CONSTITUTION OF MICHIGAN, 1835.

In Convention, begun at the city of Detroit, on the second Monday of May, in the year one thousand eight hundred and thirty-five:

We, the people of the Territory of Michigan, as established by the act of Congress of the eleventh day of January, in the year one thousand eight hundred and five, in conformity to the fifth article of the ordinance providing for the government of the territory of the United States northwest of the river Ohio, believing that the time has arrived when our present political condition ought to cease, and the right of self-government be asserted; and availing ourselves of that provision of the aforesaid ordinance of the Congress of the United States, of the thirteenth day of July, one thousand seven hundred and eighty-seven, and the acts of Congress passed in accordance therewith, which entitle us to admission into the Union, upon a condition which has been fulfilled, do, by our delegates in Convention assembled, mutually agree to form ourselves into a free and independent State, by the style and title of "The State of Michigan," and do ordain and establish the following constitution for the government of the same:

ARTICLE I.

1. All political power is inherent in the people.

2. Government is instituted for the protection, security, and benefit of the people; and they have the right at all times to alter or reform the same, and to abolish one form of government and establish another, whenever the public good requires it.

3. No man or set of men are entitled to exclusive or separate privileges.

4. Every person has a right to worship Almighty God according to the dictates of his own conscience; and no person can of right be compelled to attend, erect, or sup-

port, against his will, any place of religious worship, or pay any tithes, taxes, or other rates, for the support of any minister of the gospel or teacher of religion.

5. No money shall be drawn from the treasury for the benefit of religious societies, or theological or religious seminaries.

6. The civil and religious rights, privileges, and capacities of no individual shall be diminished or enlarged on account of his opinions or belief concerning matters of religion.

7. Every person may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all prosecutions or indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

8. The person, houses, papers and possessions of every individual shall be secure from unreasonable searches and seizures; and no warrant to search any place, or to seize any person or things, shall issue without describing them, nor without probable cause, supported by oath or affirmation.

9. The right of trial by jury shall remain inviolate.

10. In all criminal prosecutions, the accused shall have the right to a speedy and public trial by an impartial jury of the vicinage; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to have the assistance of counsel for his defence; and in all civil cases, in which

personal liberty may be involved, the trial by jury shall not be refused.

11. No person shall be held to answer for a criminal offence, unless on the presentment or indictment of a grand jury, except in cases of impeachment, or in cases cognizable by justices of the peace, or arising in the army or militia when in actual service in time of war or public danger.

12. No person, for the same offence, shall be twice put in jeopardy of punishment. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offences, when the proof is evident or the presumption great; and the privilege of the writ of habeas corpus shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require it.

13. Every person has a right to bear arms for the defence of himself and the State.

14. The military shall, in all cases and at all times, be in strict subordination to the civil power.

15. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner prescribed by law.

16. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

17. No bill of attainder, ex-post-facto law, or law impairing the obligation of contracts, shall be passed.

18. Excessive bail shall not be required; excessive fines shall not be imposed; and cruel and unjust punishment shall not be inflicted.

19. The property of no person shall be taken for public use, without just compensation therefor.

20. The people shall have the right freely to assemble together, to consult for the common good, to instruct their Representatives, and to petition the Legislature for redress of grievances.

21. All acts of the Legislature, contrary to this or any other article of this constitution, shall be void.

ARTICLE II.

ELECTORS.

1. In all elections, every white male citizen above the age of twenty-one years, having resided in the State six months next preceding any election, shall be entitled to vote at such election; and every white male inhabitant of the age aforesaid, who may be a resident of this State at the time of the signing of this constitution, shall have the right of voting as aforesaid; but no such citizen or inhabitant shall be entitled to vote except in the district, county or township in which he shall actually reside at the time of such election.

2. All votes shall be given by ballot, except for such township officers as may, by law, be directed to be otherwise chosen.

3. Electors shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from the same.

4. No elector shall be obliged to do militia duty on the days of election, except in time of war or public danger.

5. No person shall be deemed to have lost his residence in this State, by reason of his absence on business of the United States or of this State.

6. No soldier, seaman or marine, in the army or navy of the United States, shall be deemed a resident of this State, in consequence of being stationed in any military or naval place within the same.

ARTICLE III.

DIVISION OF THE POWERS OF GOVERNMENT.

1. The powers of the government shall be divided into three distinct departments: the legislative, the executive and the judicial; and one department shall never exercise the powers of another, except in such cases as are expressly provided for in this constitution.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

1. The legislative power shall be vested in a Senate and House of Representatives.

2. The number of the members of the House of Representatives shall never be less than forty-eight, nor more than one

hundred; and the Senate shall at all times equal in number one-third of the House of Representatives, as nearly as may be.

3. The Legislature shall provide by law for an enumeration of the inhabitants of this State in the years one thousand eight hundred and thirty-seven, and one thousand eight hundred and forty five, and every ten years after the said last mentioned time; and at their first session after each enumeration so made as aforesaid, and also after each enumeration made by the authority of the United States, the legislature shall apportion anew the Representatives and Senators among the several counties and districts, according to the number of white inhabitants.

4. The Representatives shall be chosen annually on the first Monday of November, and on the following day, by the electors of the several counties or districts into which the State shall be divided for that purpose. Each organized county shall be entitled to at least one Representative; but no county hereafter organized shall be entitled to a separate Representative until it shall have attained a population equal to the ratio of representation hereafter established.

5. The Senators shall be chosen for two years, at the same time and in the same manner as the Representatives are required to be chosen. At the first session of the Legislature under this constitution, they shall be divided by lot from their respective districts, as nearly as may be, into two equal classes. The seats of the Senators of the first class shall be vacated at the expiration of the first year, and of the second class at the expiration of the second year, so that one-half thereof, as nearly as may be, shall be chosen annually thereafter.

6. The State shall be divided at each new apportionment, into a number of not less than four, nor more than eight, senatorial districts, to be always composed of contiguous territory; so that each district shall elect an equal number of Senators, annually, as nearly as may be; and no county shall be divided in the formation of such districts.

7. Senators and Representatives shall be citizens of the United States, and be qualified electors in the respective counties and districts which they represent; and a remo-

val from their respective counties or districts shall be deemed a vacation of their seats.

8. No person holding any office under the United States, or of this State, officers of the militia, justices of the peace, associate judges of the circuit and county courts, and post masters excepted, shall be eligible to either house of the Legislature.

9. Senators and Representatives shall, in all cases except treason, felony or breach of the peace, be privileged from arrest; nor shall they be subject to any civil process during the session of the Legislature, nor for fifteen days next before the commencement and after the termination of each session.

10. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as each house may provide. Each house shall choose its own officers.

11. Each house shall determine the rules of its proceedings, and judge of the qualifications, elections and returns of its own members; and may, with the concurrence of two-thirds of all the members elected, expel a member; but no member shall be expelled a second time for the same cause, nor for any cause known to his constituents antecedent to his election.

12. Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the request of one-fifth of the members present, be entered on the journal. Any member of either house shall have liberty to dissent from and protest against any act or resolution which he may think injurious to the public or an individual, and have the reasons of his dissent entered on the journal.

13. In all elections by either or both houses, the votes shall be given viva voce; and all votes on nominations made to the Senate, shall be taken by yeas and nays, and published with the journal of its proceedings.

14. The doors of each house shall be open, except when the public welfare shall require secrecy; neither house shall, without the consent of the other, adjourn for

more than three days, nor to any other place than that where the Legislature may then be in session.

15. Any bill may originate in either house of the Legislature.

16. Every bill passed by the Legislature shall, before it becomes a law, be presented to the Governor; if he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, who shall enter the objections at large upon their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of all the members present agree to pass the bill, it shall be sent, with the objections, to the other house, by whom it shall likewise be reconsidered; and if approved also by two-thirds of all the members present in that house, it shall become a law; but in such cases the votes of both houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journals of each house respectively; and if any bill be not returned by the Governor within ten days, Sundays excepted, after it has been presented to him, the same shall become a law, in like manner as if he had signed it, unless the Legislature, by their adjournment, prevent its return, in which case it shall not become a law.

17. Every resolution to which the concurrence of the Senate and House of Representatives may be necessary, except in cases of adjournment, shall be presented to the Governor, and before the same shall take effect, shall be proceeded upon in the same manner as in the case of a bill.

18. The members of the Legislature shall receive for their services a compensation to be ascertained by law, and paid out of the public treasury; but no increase of the compensation shall take effect during the term for which the members of either house shall have been elected; and such compensation shall never exceed three dollars a day.

19. No member of the Legislature shall receive any civil appointment from the Governor and Senate, or from the Legislature, during the term for which he is elected.

20. The Governor shall issue writs of election to fill such vacancies as may oc-

cur in the Senate and House of Representatives.

21. The Legislature shall meet on the first Monday in January, in every year, and at no other period, unless otherwise directed by law, or provided for in this constitution.

22. The style of the laws of this State shall be: "Be it enacted by the Senate and House of Representatives of the State of Michigan."

ARTICLE V.

EXECUTIVE DEPARTMENT.

1. The supreme executive power shall be vested in a Governor, who shall hold his office for two years; and a Lieutenant Governor shall be chosen at the same time and for the same term.

2. No person shall be eligible to the office of Governor or Lieutenant Governor, who shall not have been five years a citizen of the United States, and a resident of this State two years next preceding the election.

3. The Governor and Lieutenant Governor shall be elected by the electors at the times and places of choosing members of the Legislature. The persons having the highest number of votes for Governor and Lieutenant Governor shall be elected; but in case two or more have an equal and the highest number of votes for Governor or Lieutenant Governor, the Legislature shall, by joint vote, choose one of the said persons so having an equal and the highest number of votes, for Governor or Lieutenant Governor.

4. The returns of every election for Governor and Lieutenant Governor, shall be sealed up and transmitted to the seat of government, by the returning officers, directed to the President of the Senate, who shall open and publish them in the presence of the members of both houses.

5. The Governor shall be commander-in-chief of the militia, and of the army and navy of this State.

6. He shall transact all executive business with the officers of government, civil and military; and may require information, in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices.

7. He shall take care that the laws be faithfully executed.

8. He shall have the power to convene the Legislature on extraordinary occasions. He shall communicate by message to the Legislature, at every session, the condition of the State, and recommend such matters to them as he shall deem expedient.

9. He shall have power to adjourn the Legislature to such time as he may think proper, in case of a disagreement between the two houses with respect to the time of adjournment, but not to a period beyond the next annual meeting.

10. He may direct the Legislature to meet at some other place than the seat of government, if that shall become, after its adjournment, dangerous from a common enemy or a contagious disease.

11. He shall have power to grant reprieves and pardons after conviction, except in cases of impeachment.

12. When any office, the appointment to which is vested in the Governor and Senate, or in the Legislature, becomes vacant during the recess of the Legislature, the Governor shall have power to fill such vacancy by granting a commission, which shall expire at the end of the succeeding session of the Legislature.

13. In case of the impeachment of the Governor, his removal from office, death, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant Governor until such disability shall cease, or the vacancy be filled.

14. If, during the vacancy of the office of Governor, the Lieutenant Governor shall be impeached, displaced, resign, die, or be absent from the State, the President of the Senate, pro tempore, shall act as Governor, until the vacancy be filled.

15. The Lieutenant Governor shall, by virtue of his office, be President of the Senate; in committee of the whole, he may debate on all questions; and when there is an equal division, he shall give the casting vote.

16. No member of Congress, nor any other person holding office under the United States, or this State, shall execute the office of Governor.

17. Whenever the office of Governor or Lieutenant Governor becomes vacant, the person exercising the powers of Gov-

ernor for the time being shall give notice thereof, and the electors shall, at the next succeeding annual election for members of the Legislature, choose a person to fill such vacancy.

18. The Governor shall, at stated times, receive for his services a compensation which shall neither be increased nor diminished during the term for which he has been elected.

19. The Lieutenant Governor, except when acting as Governor, and the President of the Senate pro tempore, shall each receive the same compensation as shall be allowed to the Speaker of the House of Representatives.

20. A great seal for the State shall be provided by the Governor, which shall contain the device and inscriptions represented and described in the papers relating thereto, signed by the President of the Convention, and deposited in the office of the Secretary of the Territory. It shall be kept by the Secretary of State; and all official acts of the Governor, his approbation of the laws excepted, shall be thereby authenticated.

21. All grants and commissions shall be in the name and by the authority of the people of the State of Michigan.

ARTICLE VI.

JUDICIAL DEPARTMENT.

1. The judicial power shall be vested in one Supreme Court, and in such other courts as the Legislature may from time to time establish.

2. The judges of the Supreme Court shall hold their offices for the term of seven years; they shall be nominated, and by and with the advice and consent of the Senate, appointed by the Governor. They shall receive an adequate compensation, which shall not be diminished during their continuance in office. But they shall receive no fees nor perquisites of office, nor hold any other office of profit or trust under the authority of this State or of the United States.

3. A Court of Probate shall be established in each of the organized counties.

4. Judges of all County Courts, associate judges of Circuit Courts, and judges of probate, shall be elected by the qualified electors of the county in which they

reside, and shall hold their offices for four years.

5. The Supreme Court shall appoint their clerk or clerks; and the electors of each county shall elect a clerk, to be denominated a county clerk, who shall hold his office for the term of two years, and shall perform the duties of clerk to all the courts of record to be held in each county, except the Supreme Court and Court of Probate.

6. Each township may elect four justices of the peace, who shall hold their offices for four years; and whose powers and duties shall be defined and regulated by law. At their first election they shall be classed and divided by lot into numbers one, two, three, and four, to be determined in such manner as shall be prescribed by law, so that one justice shall be annually elected in each township thereafter. A removal of any justice from the township in which he was elected, shall vacate his office. In all incorporated towns, or cities, it shall be competent for the Legislature to increase the number of justices.

7. The style of all process shall be, "In the name of the people of the State of Michigan;" and all indictments shall conclude against the peace and dignity of the same.

ARTICLE VII.

CERTAIN STATE AND COUNTY OFFICERS.

1. There shall be a Secretary of State, who shall hold his office for two years, and who shall be appointed by the Governor, by and with the advice and consent of the Senate. He shall keep a fair record of the official acts of the legislative and executive departments of the government; and shall, when required, lay the same, and all matters relative thereto, before either branch of the Legislature; and shall perform such other duties as shall be assigned him by law.

2. A State Treasurer shall be appointed by a joint vote of the two houses of the Legislature, and shall hold his office for the term of two years.

3. There shall be an Auditor General and an Attorney General for the State, and a prosecuting attorney for each of the respective counties, who shall hold their offices for two years, and who shall be appointed by the Governor by and

with the advice and consent of the Senate, and whose powers and duties shall be prescribed by law.

4. There shall be a sheriff, a county treasurer, and one or more coroners, a register of deeds and a county surveyor, chosen by the electors in each of the several counties once in every two years, and as often as vacancies shall happen. The sheriff shall hold no other office, and shall not be capable of holding the office of sheriff longer than four in any term of six years; he may be required by law to renew his security from time to time, and in default of giving such security, his office shall be deemed vacant; but the county shall never be made responsible for the acts of the sheriff.

ARTICLE VIII.

IMPEACHMENTS AND REMOVALS FROM OFFICE.

1. The House of Representatives shall have the sole power of impeaching all civil officers of the State, for corrupt conduct in office, or for crimes and misdemeanors; but a majority of all the members elected shall be necessary to direct an impeachment.

2. All impeachments shall be tried by the Senate. When the Governor or Lieutenant Governor shall be tried, the chief justice of the Supreme Court shall preside. Before the trial of an impeachment, the members of the court shall take an oath or affirmation truly and impartially to try and determine the charge in question according to the evidence; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office; but the party convicted shall be liable to indictment and punishment according to law.

3. For any reasonable cause, which shall not be sufficient ground for the impeachment of the judges of any of the courts, the Governor shall remove any of them on the address of two-thirds of each branch of the Legislature; but the cause or causes for which such removal may be required shall be stated at length in the address.

4. The Legislature shall provide by law for the removal of justices of the peace;

and other county and township officers, in such manner and for such cause as to them shall seem just and proper.

ARTICLE IX.

MILITIA.

1. The Legislature shall provide by law for organizing and disciplining the militia, in such manner as they shall deem expedient, not incompatible with the constitution and laws of the United States.

2. The Legislature shall provide for the efficient discipline of the officers, commissioned and non-commissioned, and musicians, and may provide by law for the organization and discipline of volunteer companies.

3. Officers of the militia shall be elected or appointed in such manner as the Legislature shall from time to time direct, and shall be commissioned by the Governor.

4. The Governor shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, and repel invasions.

ARTICLE X.

EDUCATION.

1. The Governor shall nominate, and by and with the advice and consent of the Legislature, in joint vote, shall appoint a Superintendent of Public Instruction, who shall hold his office for two years, and whose duties shall be prescribed by law.

2. The Legislature shall encourage, by all suitable means, the promotion of intellectual, scientific, and agricultural improvement. The proceeds of all lands that have been or hereafter may be granted by the United States to this State, for the support of schools, which shall hereafter be sold or disposed of, shall be and remain a perpetual fund; the interest of which, together with the rents of all such unsold lands, shall be inviolably appropriated to the support of schools throughout the State.

3. The Legislature shall provide for a system of common schools, by which a school shall be kept up and supported in each school district, at least three months in every year; and any school district neglecting to keep up and support such a school, may be deprived of its equal proportion of the interest of the public fund.

4. As soon as the circumstances of the

State will permit, the Legislature shall provide for the establishment of libraries, one at least in each township; and the money which shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines assessed in the several counties for any breach of the penal laws, shall be exclusively applied for the support of said libraries.

5. The Legislature shall take measures for the protection, improvement, or other disposition of such lands as have been or may hereafter be reserved or granted by the United States to this State for the support of a University; and the funds accruing from the rents or sale of such lands, or from any other source for the purpose aforesaid, shall be and remain a perpetual fund for the support of said University, with such branches as the public convenience may hereafter demand for the promotion of literature, the arts and sciences, and as may be authorized by the terms of such grant. And it shall be the duty of the Legislature, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said University.

ARTICLE XI.

PROHIBITION OF SLAVERY.

1. Neither slavery nor involuntary servitude shall ever be introduced into this State, except for the punishment of crimes, of which the party shall have been duly convicted.

ARTICLE XII.

MISCELLANEOUS PROVISIONS.

1. Members of the Legislature and all officers, executive and judicial, except such inferior officers as may by law be exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be,) that I will support the constitution of the United States, and the constitution of this State, and that I will faithfully discharge the duties of the office of —, according to the best of my ability." And no other oath, declaration or test shall be required as a qualification for any office or public trust.

2. The Legislature shall pass no act of

incorporation, unless with the assent of at least two-thirds of each house.

3. Internal improvements shall be encouraged by the government of this State; and it shall be the duty of the Legislature, as soon as may be, to make provision by law for ascertaining the proper objects of improvement in relation to roads, canals and navigable waters; and it shall also be their duty to provide by law for an equal, systematic, economical application of the funds which may be appropriated to these objects.

4. No money shall be drawn from the treasury but in consequence of appropriations made by law; and an accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws annually.

5. Divorces shall not be granted by the Legislature; but the Legislature may authorize the higher courts to grant them, under such restrictions as they may deem expedient.

6. No lottery shall be authorized by this State, nor shall the sale of lottery tickets be allowed.

7. No county now organized by law shall ever be reduced, by the organization of new counties, to less than four hundred square miles.

8. The Governor, Secretary of State, Treasurer and Auditor General, shall keep their offices at the seat of Government.

9. The seat of government for this State shall be at Detroit, or at such other place or places as may be prescribed by law, until the year eighteen hundred and forty-seven, when it shall be permanently located by the Legislature.

10. The first Governor and Lieutenant Governor shall hold their offices until the first Monday of January, eighteen hundred and thirty-eight, and until others shall be elected and qualified; and thereafter they shall hold their offices for two years, and until their successors shall be elected and qualified.

11. When a vacancy shall happen, occasioned by the death, resignation or removal from office of any person holding office under this State, the successor thereto shall hold his office for the period which his predecessor had to serve, and no longer, unless again chosen or re-appointed.

ARTICLE XIII.

MODE OF AMENDING AND REVISING THE CONSTITUTION.

1. Any amendment or amendments to this constitution may be proposed in the Senate or House of Representatives; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and referred to the Legislature then next to be chosen; and shall be published for three months previous to the time of making such choice; and if in the Legislature next chosen as aforesaid, such proposed [amendment or] amendments shall be agreed to by two-thirds of all the members elected to each house, then it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people, in such manner and at such time as the Legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the Legislature voting thereon, such amendment or amendments shall become part of the constitution.

2. And if at any time two-thirds of the Senate and House of Representatives shall think it necessary to revise or change this entire constitution, they shall recommend to the electors at the next election for members of the Legislature, to vote for or against a Convention; and if it shall appear that a majority of the electors voting at such election have voted in favor of calling a Convention, the Legislature shall at its next session provide by law for calling a Convention, to be holden within six months after the passage of such law; and such Convention shall consist of a number of members not less than that of both branches of the Legislature.

SCHEDULE.

1. That no inconvenience may arise from a change of the territorial government to a permanent State government, it is declared that all writs, actions, prosecutions, contracts, claims and rights of individuals and of bodies corporate, shall continue as if no change had taken place in this government; and all process which may, before the organization of the judi-

cial department under this constitution, be issued under the authority of the territory of Michigan, shall be as valid as if issued in the name of the State.

2. All laws now in force in the territory of Michigan, which are not repugnant to this constitution, shall remain in force until they expire by their own limitations, or be altered or repealed by the Legislature.

3. All fines, penalties, forfeitures and escheats, accruing to the territory of Michigan, shall accrue to the use of the State.

4. All recognizances heretofore taken, or which may be taken before the organization of the judicial department under this constitution, shall remain valid, and shall pass over to, and may be prosecuted in the name of the State. And all bonds executed to the Governor of this territory, or to any other officer in his official capacity, shall pass over to the Governor or other proper State authority, and to their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly. All criminal prosecutions and penal actions, which have arisen or which may arise before the organization of the judicial department under this constitution, and which shall then be depending, may be prosecuted to judgment and execution in the name of the State.

5. All officers, civil and military, now holding their offices and appointments in this territory under the authority of the United States, or under the authority of this territory, shall continue to hold and exercise their respective offices and appointments until superseded under this constitution.

6. The first election for Governor, Lieutenant Governor, members of the State Legislature, and a Representative in the Congress of the United States, shall be held on the first Monday in October next, and on the succeeding day. And the President of the Convention shall issue writs to the sheriffs of the several counties or districts, or, in case of vacancy, to the coroners, requiring them to cause such election to be held on the days aforesaid, in their respective counties or districts. The election shall be conducted in the manner prescribed, and by the township officers designated as inspectors of election, and the returns made as required by the existing laws of the territory, or by the

this constitution: Provided, however, That the returns of the several townships in the district composed of the unorganized counties of Ottawa, Ionia, Kent and Clinton, shall be made to the clerk of the township of Kent, in said district, and the said township clerk shall perform the same duties as by the existing laws of the territory, devolve upon the clerks of the several counties in similar cases.

7. The first meeting of the Legislature shall be at the city of Detroit, on the first Monday in November next, with power to adjourn to any other place.

8. All county and township officers shall continue to hold their respective offices, unless removed by the competent authority, or until the Legislature shall, in conformity to the provisions of this constitution, provide for the holding of elections to fill such offices respectively.

9. This constitution shall be submitted at the election to be held on the first Monday in October next and on the succeeding day, for ratification or rejection, to the electors qualified by this constitution to vote at all elections; and if the same be ratified by the said electors, the same shall become the constitution of the State of Michigan. At the election aforesaid, on such of the ballots as are for the said constitution, shall be written or printed the word "yes," and on those which are against the ratification of said constitution, the word "no." And the returns of the votes on the question of ratification [or rejection] of said constitution, shall be made to the President of this Convention at any time before the first Monday in November next, and a digest of the same communicated by him to the Senate and House of Representatives on that day.

10. And if this constitution shall be ratified by the people of Michigan, the President of this Convention shall, immediately after the same shall be ascertained, cause a fair copy thereof, together with an authenticated copy of the act of the Legislative Council, entitled "An act to enable the people of Michigan to form a constitution and State government," approved January twenty-sixth, eighteen hundred and thirty-five, providing for the calling of this Convention, and also a copy of so much of the last census of this territory as exhibits the number of free inhabitants

of that part thereof which is comprised within the limits in said constitution defined as the boundaries of the proposed State of Michigan, to be forwarded to the President of the United States, together with an expression of the decided opinion of this Convention, that the number of the free inhabitants of said proposed State now exceeds the number requisite to constitute two congressional districts, and the respectful request of this Convention, in behalf of the people of Michigan, that all said matters may be by him laid before the the Congress of the United States at their next session.

11. In case of the failure of the President of this Convention to perform the duties prescribed by this constitution, by reason of his absence, death, or from any other cause, said duties shall be performed by the Secretaries of this Convention.

12. Until the first enumeration shall be made as directed by this constitution, the county of Wayne shall be entitled to eight Representatives; the county of Monroe to four Representatives; the county of Washtenaw to seven Representatives; the county of St. Clair to one Representative; the county of St. Joseph to two Representatives; the county of Berrien to one Representative; the county of Calhoun to one Representative; the county of Jackson to one Representative; the county of Cass to two Representatives; the county of Oakland to six Representatives; the county of Macomb to three Representatives; the county of Lenawee to four Representatives; the county of Kalamazoo and the unorganized counties of Allegan and Barry to two Representatives; the county of Branch to one Representative; the county of Hillsdale to one Representative; the county of Lapeer to one Representative; the county of Saginaw and the unorganized counties of Genesee and Shiawassee to one Representative; the county of Michilimackinac to one Representative; the county of Chippewa to one Representative; and the unorganized counties of Otawa, Kent, Ionia and Clinton, to one Representative.

And for the election of Senators, the State shall be divided into five districts; and the apportionment shall be as follows: The county of Wayne shall comprise the first district, and elect three Senators; the

counties of Monroe and Lenawee shall compose the second district, and elect three Senators; the counties of Hillsdale, Branch, St. Joseph, Cass, Berrien, Kalamazoo and Calhoun shall compose the third district, and elect three Senators; the counties of Washtenaw and Jackson shall compose the fourth district, and elect three Senators; and the counties of Oakland, Lapeer, Saginaw, Macomb, St. Clair, Michilimackinac and Chippewa shall compose the fifth district, and elect four Senators.

Any country attached to any county for judicial purposes, if not otherwise represented, shall be considered as forming part of such county, so far as regards elections for the purpose of representation in the Legislature.

JOHN BIDDLE, *President*.

AMENDMENTS.

[The following amendment to the constitution was proposed by the Legislature in 1838, referred to the Legislature of 1839, agreed to in 1839 by two-thirds of all the members elected to each house, submitted to the people and approved and ratified at an election held in November, 1839:]

AMENDMENT NO. I.

That so much of the first section of the second article of the Constitution as prescribes the place in which an elector may vote, and which is in these words, to wit: "district, county or township," be abolished, and that the following be substituted in the place thereof, to wit: "township or ward."

[The following amendment was proposed in 1842, and referred to the next Legislature, submitted to the people by a joint resolution, approved March 9, 1843, and approved and ratified at the election in November, 1843:]

AMENDMENT NO. II.

That the constitution of this State be so amended, that every law authorizing the borrowing of money or the issuing of State stocks, whereby a debt shall be created on the credit of the State, shall specify the object for which the money shall be appropriated; and that every such law shall embrace no more than one such object, which

shall be simply and specifically stated; and that no such law shall take effect until it shall be submitted to the people at the next general election, and be approved by a majority of the votes cast for and against it at such election; that all money to be raised by the authority of such law be applied to the specific object stated in such law, and to no other purpose, except the payment of such debt thereby created. This provision shall not extend or apply to any law to raise money for defraying the actual expenses of the Legislature, the judicial and State officers, for suppressing insurrection, repelling invasion or defending the State in time of war. [See note.]

[The following amendment was proposed in 1843, referred to the next Legislature, agreed to in 1844 by two-thirds of all the members elected to each house, submitted to the people, and ratified and approved at the election in November, 1844:]

AMENDMENT NO. III.

Strike out of section four of article four, the words "on the first Monday in November and on the following day," and insert the words "On the first Tuesday," so that said section will read:

The Representatives shall be chosen annually on the first Tuesday of November, by the electors of the several counties or districts into which the State shall be divided for that purpose. [See Note.]

[The following amendment was proposed in 1848, referred to the Legislature of 1849, agreed to by two-thirds of all the members elected to each house, submitted to the people, and approved and ratified at the election held in November, 1849.]

AMENDMENT NO. IV.

The Legislature of this State for the year eighteen hundred and fifty shall provide by law for the election by the people of the following officers, viz: "Judges of the Supreme Court, who shall be ineligible to any other than a judicial office during the term for which they are elected, and for one year thereafter; Auditor General, State Treasurer, Secretary of State, Attorney General, Superintendent of Public Instruction, and Prosecuting Attorneys; and the said judges are prohibited from receiving

any fees of office or other compensation than their salaries, for any civil duties performed by them."

NOTE.—Amendment No. 2, does not appear to have been agreed to by the Legislature of 1843, as the constitution requires. All that appears in the published laws of that year in reference to it, is Joint Resolution No. 22, which provides that it be submitted to the people at the then next general election; but makes no provision for the return or canvass of the votes. The votes, however, were returned, and canvassed by the board of State canvassers, and the result thus ascertained to be in favor of the amendment.

It appears from the journal of the house of Representative for 1843, that on the 16th of February, the joint resolution of the previous Legislature, proposing this amendment, was called up, and the House refused to agree—yeas 34, nays 15; which vote was, on the same day, reconsidered, (House Journal, p. 301, 303.) On the 9th of March, "the joint resolution amending the constitution was considered, the rules suspended, and the same adopted," (House Journal, p. 350,) but the yeas and nays were not entered upon the journal.

On the same day, the "joint resolution in relation to the amendment of the constitution," proposed by the Legislature in 1842, was taken up in the Senate and adopted—yeas 15, nays 3. (Senate Journal, p. 412.) A message was afterwards on that day received from the House, transmitting "joint resolution in relation to amendment of constitution," which the House had passed, and the rule was thereupon suspended, and the resolution adopted, the yeas and nays not being entered upon the journal. (Senate Journal, p. 418, 419.)

On that day, a message from the Senate was received by the House, returning "joint resolution in relation to the amendment of the constitution," and advising the House that the Senate had concurred therein; and the same was thereupon ordered to be enrolled. (House Journal, p. 533 & 534.)

On the same day, a message was received by the House from the Governor, advi-

sing the House that he had approved and deposited with the Secretary of State "joint resolution for amending the constitution of the State of Michigan." (House Journal, p. 538.)

It seems, therefore, to be a matter of doubt whether the resolution of 1842, relative to borrowing money, &c., was actually agreed to by the Legislature of 1843. The resolution for submitting the amendment to the people, is entitled "Joint Resolution."

Amendment No. 3, as proposed in 1843,

was modified in form, but not in substance, by the joint resolution approved January 16, 1844. The words stricken out, and those inserted by this amendment, leave no designation of the month in which the election is to be holden, yet the section is made to read as though the words "of November" had not been stricken out.

The language of the amendment also implies that the reading of the whole of section 4, of article 4 of the constitution, is given in the resolution, whereas it includes only the first clause of that section.

REVISED CONSTITUTION, 1850.

The People of the State of Michigan do ordain this Constitution.

ARTICLE I.

BOUNDARIES.

The State of Michigan consists of and has jurisdiction over the territory embraced within the following boundaries, to wit: Commencing at a point on the eastern boundary line of the State of Indiana, where a direct line drawn from the southern extremity of Lake Michigan to the most northerly cape of the Maumee Bay, shall intersect the same—said point being the north-west corner of the State of Ohio, as established by act of Congress, entitled “an act to establish the northern boundary line of the State of Ohio, and to provide for the admission of the State of Michigan into the Union upon the conditions therein expressed,” approved June fifteenth, one thousand eight hundred and thirty-six; thence with the said boundary line of the State of Ohio, till it intersects the boundary line between the United States and Canada, in Lake Erie; thence with said boundary line between the United States and Canada, through the Detroit river, Lake Huron and Lake Superior, to a point where the said line last touches Lake Superior; thence in a direct line through Lake Superior to the mouth of the Montreal river; thence through the middle of the main channel of the said river Montreal to the head waters thereof; thence in a direct line to the centre of the channel between Middle and South Islands, in the Lake of the Desert; thence in a direct line to the southern shore of Lake Brule; thence along said southern shore

and down the river Brule to the main channel of the Menominee river; thence down the centre of the main channel of the same to the centre of the most usual ship channel of the Green Bay of Lake Michigan; thence through the centre of the most usual ship channel of the said Bay, to the middle of Lake Michigan; thence through the middle of Lake Michigan to the northern boundary of the State of Indiana, as that line was established by the act of Congress of the nineteenth of April, eighteen hundred and sixteen; thence due east with the north boundary line of the said State of Indiana to the north-east corner thereof; and thence south with the eastern boundary line of Indiana to the place of beginning.

ARTICLE II.

SEAT OF GOVERNMENT.

Sec. 1. The seat of government shall be in Lansing, where it is now established.

ARTICLE III.

DIVISION OF THE POWERS OF GOVERNMENT.

Sec. 1. The powers of Government are divided into three departments: the legislative, executive and judicial.

Sec. 2. No person belonging to one department shall exercise the powers properly belonging to another, except in the cases expressly provided in this constitution.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

Section 1. The legislative power is vest-

ed in a Senate and House of Representatives.

Sec. 2. The Senate shall consist of thirty-two members. Senators shall be elected for two years, and by single districts. Such districts shall be numbered from one to thirty-two inclusive; each of which shall choose one Senator. No county shall be divided in the formation of senate districts, except such county shall be equitably entitled to two or more Senators.

Sec. 3. The House of Representatives shall consist of not less than sixty-four, nor more than one hundred members. Representatives shall be chosen for two years, and by single districts. Each representative district shall contain, as nearly as may be, an equal number of white inhabitants, and civilized persons of Indian descent not members of any tribe, and shall consist of convenient and contiguous territory. But no township or city shall be divided in the formation of a representative district. When any township or city shall contain a population which entitles it to more than one Representative, then such township or city shall elect by general ticket the number of Representatives to which it is entitled. Each county hereafter organized, with such territory as may be attached thereto, shall be entitled to a separate Representative when it has attained a population equal to a moiety of the ratio of representation. In every county entitled to more than one Representative, the board of supervisors shall assemble at such time and place as the Legislature shall prescribe, and divide the same into representative districts, equal to the number of Representatives to which such county is entitled by law, and shall cause to be filed in the offices of Secretary of State and clerk of such county, a description of such representative districts, specifying the number of each district, and the population thereof, according to the last preceding enumeration.

Sec. 4. The Legislature shall provide by law for an enumeration of the inhabitants in the year eighteen hundred and fifty-four, and every ten years thereafter; and at the first session after each enumeration so made, and also at the first session after each enumeration by the authority of the United States, the Legislature shall re-arrange the Senate districts, and ap-

portion anew the Representatives among the counties and districts, according to the number of white inhabitants and civilized persons of Indian descent, not members of any tribe. Each apportionment, and the division into representative districts by any board of supervisors, shall remain unaltered until the return of another enumeration.

Sec. 5. Senators and Representatives shall be citizens of the United States, and qualified electors in the respective counties and districts which they represent. A removal from their respective counties or districts shall be deemed a vacation of their office.

Sec. 6. No person holding any office under the United States [or this State,] or any county office, except notaries public, officers of the militia, and officers elected by townships, shall be eligible to or have a seat in either house of the Legislature; and all votes given for any such person shall be void.

Sec. 7. Senators and Representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest. They shall not be subject to any civil process during the session of the Legislature, or for fifteen days next before the commencement and after the termination of each session; they shall not be questioned in any other place for any speech in either house.

Sec. 8. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as each house may prescribe.

Sec. 9. Each house shall choose its own officers, determine the rules of its proceedings, and judge of the qualifications, election and returns of its members; and may, with the concurrence of two-thirds of all the members elected, expel a member. No member shall be expelled a second time for the same cause; nor for any cause known to his constituents antecedent to his election; the reason for such expulsion shall be entered upon the journal, with the names of the members voting on the question.

Sec. 10. Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require se-

erecy. The yeas and nays of the members of either house, on any question, shall be entered on the journal at the request of one-fifth of the members elected. Any member of either house may dissent from and protest against any act, proceeding or resolution which he may deem injurious to any person or the public, and have the reason of his dissent entered on the journal.

Sec. 11. In all elections by either house, or in joint convention, the votes shall be given *viva voce*. All votes on nominations to the Senate, shall be taken by yeas and nays, and published with the journal of its proceedings.

Sec. 12. The doors of each house shall be open, unless the public welfare require secrecy. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than where the Legislature may then be in session.

Sec. 13. Bills may originate in either house of the Legislature.

Sec. 14. Every bill and concurrent resolution, except of adjournment, passed by the Legislature, shall be presented to the Governor before it becomes a law. If he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it originated, which shall enter the objections at large upon their journal, and reconsider it. On such reconsideration, if two-thirds of the members elected agree to pass the bill, it shall be sent with the objections to the other house, by which it shall be reconsidered. If approved by two-thirds of the members elected to that house, it shall become a law. In such case, the vote of both houses shall be determined by yeas and nays; and the names of the members voting for and against the bill shall be entered on the journals of each house respectively. If any bill be not returned by the Governor within ten days, Sundays excepted, after it has been presented to him, the same shall become a law, in like manner as if he had signed it, unless the Legislature, by their adjournment, prevent its return; in which case it shall not become a law. The Governor may approve, sign, and file in the office of the Secretary of State, within five days after the adjournment of the Legislature, any act passed during the last five

days of the session; and the same shall become a law.

Sec. 15. The compensation of the members of the Legislature shall be three dollars a day for actual attendance and when absent on account of sickness, for the first sixty days of the session of the year one thousand eight hundred and fifty-one, and for the first forty days of every subsequent session, and nothing thereafter. When convened in extra session their compensation shall be three dollars a day for the first twenty days, and nothing thereafter; and they shall legislate on no other subjects than those expressly stated in the Governor's proclamation, or submitted to them by special message. They shall be entitled to ten cents, and no more, for every mile actually traveled, going to and returning from the place of meeting, on the usually traveled route; and for stationery and newspapers not exceeding five dollars for each member during any session. Each member shall be entitled to one copy of the laws, journals and documents of the Legislature of which he was a member; but shall not receive, at the expense of the State, books, newspapers, or other perquisites of office, not expressly authorized by this constitution.

Sec. 16. The Legislature may provide by law for the payment of postage on all mailable matter received by its members and officers during the sessions of the Legislature, but not on any sent or mailed by them.

Sec. 17. The President of the Senate and the Speaker of the House of Representatives shall be entitled to the same per diem compensation and mileage as members of the Legislature, and no more.

Sec. 18. No person elected a member of the Legislature shall receive any civil appointment within this State, or to the Senate of the United States, from the Governor, the Governor and Senate, from the Legislature, or any other State authority, during the term for which he is elected. All such appointments, and all votes given for any person so elected for any such office or appointment, shall be void. No member of the Legislature shall be interested, directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the

time for which he is elected, nor for one year thereafter.

Sec. 19. Every bill and joint resolution shall be read three times in each house before the final passage thereof. No bill or joint resolution shall become a law without the concurrence of a majority of all the members elected to each house. On the final passage of all bills the vote shall be by ayes and nays, and entered on the journal.

Sec. 20. No law shall embrace more than one object, which shall be expressed in its title. No public act shall take effect or be in force until the expiration of ninety days from the end of the session at which the same is passed, unless the Legislature shall otherwise direct, by a two-thirds vote of the members elected to each house.

Sec. 21. The Legislature shall not grant nor authorize extra compensation to any public officer, agent or contractor, after the service has been rendered or the contract entered into.

Sec. 22. The Legislature shall provide by law that the furnishing of fuel and stationery for the use of the State, the printing and binding the laws and journals, all blanks, paper and printing for the executive departments, and all other printing ordered by the Legislature, shall be let by contract to the lowest bidder or bidders, who shall give adequate and satisfactory security for the performance thereof. The Legislature shall prescribe by law the manner in which the State printing shall be executed, and the accounts rendered therefor; and shall prohibit all charges for constructive labor. They shall not rescind nor alter such contract, nor release the person nor persons taking the same, or his or their sureties, from the performance of any of the conditions of the contract. No member of the Legislature nor officer of the State shall be interested directly or indirectly in any such contract.

Sec. 23. The Legislature shall not authorize, by private or special law, the sale or conveyance of any real estate belonging to any person; nor vacate nor alter any road laid out by commissioners of highways, or any street in any city or village, or in any recorded town plat.

Sec. 24. The Legislature may authorize the employment of a chaplain for the State Prison; but no money shall be ap-

propriated for the payment of any religious services in either house of the Legislature.

Sec. 25. No law shall be revised, altered or amended by reference to its title only; but the act revised, and the section or sections of the act altered or amended shall be re-enacted and published at length.

Sec. 26. Divorces shall not be granted by the Legislature.

Sec. 27. The Legislature shall not authorize any lottery, nor permit the sale of lottery tickets.

Sec. 28. No new bill shall be introduced into either house during the last three days of the session, without the unanimous consent of the house in which it originates.

Sec. 29. In case of a contested election, the person only shall receive from the State per diem compensation and mileage who is declared to be entitled to a seat by the house in which the contest takes place.

Sec. 30. No collector, holder nor disburser of public moneys, shall have a seat in the Legislature or be eligible to any office of trust or profit under this State, until he shall have accounted for and paid over, as provided by law, all sums for which he may be liable.

Sec. 31. The Legislature shall not audit nor allow any private claim or account.

Sec. 32. The Legislature, on the day of final adjournment, shall adjourn at twelve o'clock at noon.

Sec. 33. The Legislature shall meet at the seat of government on the first Wednesday in February next, and on the first Wednesday in January of every second year thereafter, and at no other place or time, unless as provided in this constitution.

Sec. 34. The election of Senators and Representatives, pursuant to the provisions of this constitution, shall be held on the Tuesday succeeding the first Monday of November, in the year one thousand eight hundred and fifty-two, and on the Tuesday succeeding the first Monday of November of every second year thereafter.

Sec. 35. The Legislature shall not establish a State Paper. Every newspaper in the State which shall publish all the general laws of any session within forty days of their passage, shall be entitled to

receive a sum not exceeding fifteen dollars therefor.

Sec. 36. The Legislature shall provide for the speedy publication of all statute laws of a public nature, and of such judicial decisions as it may deem expedient. All laws and judicial decisions shall be free for publication by any person.

Sec. 37. The Legislature may declare the cases in which any office shall be deemed vacant, and also the manner of filling the vacancy, where no provision is made for that purpose in this constitution.

Sec. 38. The Legislature may confer upon organized townships, incorporated cities and villages, and upon the board of supervisors of the several counties, such powers of a local, legislative and administrative character as they may deem proper.

Sec. 39. The Legislature shall pass no law to prevent any person from worshipping Almighty God according to the dictates of his own conscience; or to compel any person to attend, erect or support any place of religious worship, or to pay tithes, taxes or other rates for the support of any minister of the gospel or teacher of religion.

Sec. 40. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the State be appropriated for any such purposes.

Sec. 41. The Legislature shall not diminish or enlarge the civil or political rights, privileges and capacities of any person, on account of his opinion or belief concerning matters of religion.

Sec. 42. No law shall ever be passed to restrain or abridge the liberty of speech or of the press; but every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of such right.

Sec. 43. The Legislature shall pass no bill of attainder, ex post facto law, or law impairing the obligation of contracts.

Sec. 44. The privilege of the writ of habeas corpus remains, and shall not be suspended by the Legislature, except in case of rebellion or invasion the public safety require it.

Sec. 45. The assent of two-thirds of the members elected to each house of the Le-

gislature shall be requisite to every bill appropriating the public money or property for local or private purposes.

Sec. 46. The Legislature may authorize a trial by a jury of a less number than twelve men.

Sec. 47. The Legislature shall not pass any act authorizing the grant of license for the sale of ardent spirits or other intoxicating liquors.

Sec. 48. The style of the laws shall be: "The People of the State of Michigan enact."

ARTICLE V.

EXECUTIVE DEPARTMENT.

Sec. 1. The executive power is vested in a Governor, who shall hold his office for two years. A Lieutenant Governor shall be chosen for the same term.

Sec. 2. No person shall be eligible to the office of Governor or Lieutenant Governor who has not been five years a citizen of the United States, and a resident of this State two years next preceding his election; nor shall any person be eligible to either office who has not attained the age of thirty years.

Sec. 3. The Governor and Lieutenant Governor shall be elected at the times and places of choosing the members of the Legislature. The person having the highest number of votes for Governor or Lieutenant Governor shall be elected. In case two or more persons shall have an equal and the highest number of votes for Governor or Lieutenant Governor, the Legislature shall, by joint vote, choose one of such persons.

Sec. 4. The Governor shall be commander-in-chief of the military and naval forces; and may call out such forces to execute the laws, to suppress insurrections and to repel invasion.

Sec. 5. He shall transact all necessary business with officers of government, and may require information, in writing, from the officers of the executive department upon any subject relating to the duties of their respective offices.

Sec. 6. He shall take care that the laws be faithfully executed.

Sec. 7. He may convene the Legislature on extraordinary occasions.

Sec. 8. He shall give to the Legislature, and at the close of his official term to the next Legislature, information by message,

of the condition of the State, and recommend such measures to them as he shall deem expedient.

Sec. 9. He may convene the Legislature at some other place, when the seat of government becomes dangerous from disease or a common enemy.

Sec. 10. He shall issue writs of election to fill such vacancies as occur in the Senate or House of Representatives.

Sec. 11. He may grant reprieves, commutations and pardons, after convictions, for all offences except treason and cases of impeachment, upon such conditions and with such restrictions and limitations as he may think proper, subject to regulations provided by law, relative to the manner of applying for pardons. Upon conviction for treason, he may suspend the execution of the sentence until the case shall be reported to the Legislature at its next session, when the Legislature shall either pardon or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall communicate to the Legislature at each session, information of each case of reprieve, commutation or pardon granted, and the reasons therefor.

Sec. 12. In case of the impeachment of the Governor, his removal from office, death, inability, resignation or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant Governor, for the residue of the term, or until the disability ceases. When the Governor shall be out of the State in time of war, at the head of a military force thereof, he shall continue commander-in-chief of all the military force of the State.

Sec. 13. During a vacancy in the office of Governor, if the Lieutenant Governor die, resign, be impeached, displaced, be incapable of performing the duties of his office, or absent from the State, the President *pro tempore* of the Senate shall act as Governor, until the vacancy be filled, or the disability cease.

Sec. 14. The Lieutenant Governor shall, by virtue of his office, be President of the Senate. In committee of the whole he may debate all questions; and when there is an equal division he shall give the casting vote.

Sec. 15. No member of Congress, nor any person holding office under the Uni-

ted States, or this State, shall execute the office of Governor.

Sec. 16. No person elected Governor or Lieutenant Governor shall be eligible to any office or appointment from the Legislature, or either house thereof, during the time for which he was elected. All votes for either of them, for any such office, shall be void.

Sec. 17. The Lieutenant [Governor] and President of the Senate *pro tempore*, when performing the duties of Governor, shall receive the same compensation as the Governor.

Sec. 18. All official acts of the Governor, his approval of the laws excepted, shall be authenticated by the great seal of the State, which shall be kept by the Secretary of State.

Sec. 19. All commissions issued to persons holding office under the provisions of this constitution, shall be in the name and by the authority of the people of the State of Michigan, sealed with the great seal of the State, signed by the Governor and countersigned by the Secretary of State.

ARTICLE VI.

JUDICIAL DEPARTMENT.

Section 1. The judicial power is vested in one Supreme Court, in Circuit Courts, in probate courts, and in justices of the peace. Municipal courts of civil and criminal jurisdiction may be established by the Legislature in cities.

Sec. 2. For the term of six years, and thereafter, until the Legislature otherwise provide, the judges of the several Circuit Courts shall be judges of the Supreme Court, four of whom shall constitute a quorum. A concurrence of three shall be necessary to a final decision. After six years, the Legislature may provide by law for the organization of a Supreme Court, with the jurisdiction and powers prescribed in this constitution, to consist of one chief justice and three associate justices, to be chosen by the electors of the State. Such Supreme Court, when so organized, shall not be changed or discontinued by the Legislature for eight years thereafter. The judges thereof shall be so classified that but one of them shall go out of office at the same time. Their term of office shall be eight years.

Sec. 3. The Supreme Court shall have

a general superintending control over all inferior courts, and shall have power to issue writs of error, habeas corpus, mandamus, quo warranto, procedendo, and other original and remedial writs, and to hear and determine the same. In all other cases it shall have appellate jurisdiction only.

Sec. 4. Four terms of the Supreme Court shall be held annually, at such times and places as may be designated by law.

Sec. 5. The Supreme Court shall, by general rules, establish, modify and amend the practice in such court and in the Circuit Courts, and simplify the same. The Legislature shall, as far as practicable, abolish distinctions between law and equity proceedings. The office of master in chancery is prohibited.

Sec. 6. The State shall be divided into eight judicial circuits; in each of which the electors thereof shall elect one circuit judge, who shall hold his office for the term of six years and until his successor is elected and qualified.

Sec. 7. The Legislature may alter the limits of circuits or increase the number of the same. No alteration or increase shall have the effect to remove a judge from office. In every additional circuit established, the judge shall be elected by the electors of such circuit, and his term of office shall continue as provided in this constitution for judges of the Circuit Court.

Sec. 8. The Circuit Courts shall have original jurisdiction in all matters, civil and criminal, not excepted in this constitution, and not prohibited by law; and appellate jurisdiction from all inferior courts and tribunals, and a supervisory control of the same. They shall also have power to issue writs of habeas corpus, mandamus, injunction, quo warranto, certiorari, and other writs necessary to carry into effect their orders, judgments and decrees, and give them a general control over inferior courts and tribunals within their respective jurisdictions.

Sec. 9. Each of the judges of the Circuit Courts shall receive a salary, payable quarterly. They shall be ineligible to any other than a judicial office during the term for which they are elected, and for one year thereafter. All votes for any person elected such judge, for any office other

than judicial, given either by the Legislature or the people, shall be void.

Sec. 10. The Supreme Court may appoint a reporter of its decisions. The decisions of the Supreme Court shall be in writing, and signed by the judges concurring therein. Any judge dissenting therefrom shall give the reasons of such dissent in writing, under his signature. All such opinions shall be filed in the office of the clerk of the Supreme Court. The judges of the Circuit Court, within their respective jurisdictions, may fill vacancies in the office of county clerk and of prosecuting attorney; but no judge of the Supreme Court, or Circuit Court, shall exercise any other power of appointment to public office.

Sec. 11. A Circuit Court shall be held at least twice in each year in every county organized for judicial purposes, and four times in each year in counties containing ten thousand inhabitants. Judges of the Circuit Court may hold courts for each other, and shall do so when required by law.

Sec. 12. The clerk of each county organized for judicial purposes shall be the clerk of the Circuit Court of such county, and of the Supreme Court when held within the same.

Sec. 13. In each of the counties organized for judicial purposes, there shall be a Court of Probate. The judge of such court shall be elected by the electors of the county in which he resides, and shall hold his office for four years, and until his successor is elected and qualified. The jurisdiction, powers and duties of such court shall be prescribed by law.

Sec. 14. When a vacancy occurs in the office of judge of the Supreme, Circuit or Probate Court, it shall be filled by appointment of the Governor, which shall continue until a successor is elected and qualified. When elected, such successor shall hold his office the residue of the unexpired term.

Sec. 15. The Supreme Court, the Circuit and Probate Courts of each county, shall be courts of record, and shall each have a common seal.

Sec. 16. The Legislature may provide by law for the election of one or more persons in each organized county, who may be vested with judicial powers not exceed-

ing those of a judge of the Circuit Court at chambers.

Sec. 17. There shall be not exceeding four justices of the peace in each organized township. They shall be elected by the electors of the townships, and shall hold their offices for four years, and until their successors are elected and qualified. At the first election in any townships, they shall be classified as shall be prescribed by law. A justice elected to fill a vacancy shall hold his office for the residue of the unexpired term. The Legislature may increase the number of justices in cities.

Sec. 18. In civil cases, justices of the peace shall have exclusive jurisdiction to the amount of one hundred dollars, and concurrent jurisdiction to the amount of three hundred dollars, which may be increased to five hundred dollars, with such exceptions and restrictions as may be provided by law. They shall also have such criminal jurisdiction and perform such duties as shall be prescribed by the Legislature.

Sec. 19. Judges of the Supreme Court, circuit judges, and justices of the peace, shall be conservators of the peace within their respective jurisdictions.

Sec. 20. The first election of judges of the Circuit Courts shall be held on the first Monday in April, one thousand eight hundred and fifty-one, and every sixth year thereafter. Whenever an additional circuit is created, provision shall be made to hold the subsequent election of such additional judges at the regular elections herein provided.

Sec. 21. The first election of judges of the Probate Courts shall be held on the Tuesday succeeding the first Monday of November, one thousand eight hundred and fifty-two, and every fourth year thereafter.

Sec. 22. Whenever a judge shall remove beyond the limits of the jurisdiction for which he was elected, or a justice of the peace from the township in which he was elected, or by a change in the boundaries of such township, shall be placed without the same, they shall be deemed to have vacated their respective offices.

Sec. 23. The Legislature may establish courts of conciliation, with such powers and duties as shall be prescribed by law.

Sec. 24. Any suitor in any court of this

State shall have the right to prosecute or defend his suit, either in his own proper person, or by an attorney or agent of his choice.

Sec. 25. In all prosecutions for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the party shall be acquitted. The jury shall have the right to determine the law and the fact.

Sec. 26. The person, houses, papers and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things, shall issue without describing them, nor without probable cause, supported by oath or affirmation.

Sec. 27. The right of trial by jury shall remain, but shall be deemed to be waived in all civil cases, unless demanded by one of the parties in such manner as shall be prescribed by law.

Sec. 28. In every criminal prosecution the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than twelve men in all courts not of record; to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and have the assistance of counsel for his defence.

Sec. 29. No person, after acquittal upon the merits, shall be tried for the same offence. All persons shall, before conviction, be bailable by sufficient sureties, except for murder and treason, when the proof is evident or the presumption great.

Sec. 30. Treason against the State shall consist only in levying war against [it,] or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless upon the testimony of two witnesses to the same overt act, or on confession in open court.

Sec. 31. Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted, nor shall witnesses be unreasonably detained.

Sec. 32. No person shall be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty or property, without due process of law.

Sec. 33. No person shall be imprisoned for debt, arising out of or founded on a contract, express or implied, except in cases of fraud or breach of trust, or of moneys collected by public officers or in any professional employment. No person shall be imprisoned for a militia fine in time of peace.

Sec. 34. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

Sec. 35. The style of all process shall be: "In the name of the people of the State of Michigan."

ARTICLE VII.

ELECTIONS.

Section 1. In all elections, every white male citizen, every white male inhabitant residing in the State on the twenty-fourth day of June, one thousand eight hundred and thirty-five; every white male inhabitant residing in this State on the first day of January, one thousand eight hundred and fifty, who has declared his intention to become a citizen of the United States, pursuant to the laws thereof, six months preceding an election, or who has resided in this State two years and six months, and declared his intention as aforesaid, and every civilized male inhabitant of Indian descent, a native of the United States, and not a member of any tribe, shall be an elector and entitled to vote; but no citizen or inhabitant shall be an elector or entitled to vote at any election, unless he shall be above the age of twenty-one years, and has resided in this State three months, and in the township or ward in which he offers to vote, ten days next preceding such election.

Sec. 2. All votes shall be given by ballot, except for such township officers as may be authorized by law to be otherwise chosen.

Sec. 3. Every elector, in all cases except treason, felony, or breach of the peace, shall be privileged from arrest during his attendance at election, and in going to and returning from the same.

Sec. 4. No elector shall be obliged to do militia duty on the day of election, except in time of war or public danger, or attend court as a suitor or witness.

Sec. 5. No elector shall be deemed to have gained or lost a residence by reason

of his being employed in the service of the United States or of this State; nor while engaged in the navigation of the waters of this State or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse or other asylum at public expense; nor while confined in any public prison.

Sec. 6. Laws may be passed to preserve the purity of elections, and guard against abuses of the elective franchise.

Sec. 7. No soldier, seaman, nor marine in the army or navy of the United States, shall be deemed a resident of this State in consequence of being stationed in any military or naval place within the same.

Sec. 8. Any inhabitant who may hereafter be engaged in a duel, either as principal or accessory before the fact, shall be disqualified from holding any office under the constitution and laws of this State, and shall not be permitted to vote at any election.

ARTICLE VIII.

STATE OFFICERS.

Sec. 1. There shall be elected at each general biennial election, a Secretary of State, a Superintendent of Public Instruction, a State Treasurer, a Commissioner of the Land Office, an Auditor General, and an Attorney General, for the term of two years. They shall keep their offices at the seat of government, and shall perform such duties as may be prescribed by law.

Sec. 2. Their term of office shall commence on the first day of January, one thousand eight hundred and fifty-three, and of every second year thereafter.

Sec. 3. Whenever a vacancy shall occur in any of the State offices, the Governor shall fill the same by appointment, by and with the advice and consent of the Senate, if in session.

Sec. 4. The Secretary of State, State Treasurer, and Commissioner of the State Land Office shall constitute a board of State Auditors, to examine and adjust all claims against the State not otherwise provided for by general law. They shall constitute a board of State Canvassers to determine the result of all elections for Governor, Lieutenant Governor, and State Officers, and of such other officers as shall by law be referred to them.

Sec. 5. In case two or more persons have an equal and the highest number of votes for any office, as canvassed by the board of State Canvassers, the Legislature, in joint convention, shall choose one of said persons to fill such office. When the determination of the board of State Canvassers is contested, the Legislature in joint convention shall decide which person is elected.

ARTICLE IX.

SALARIES.

Sec. 1. The governor shall receive an annual salary of one thousand dollars; the judges of the Circuit Court shall each receive an annual salary of one thousand five hundred dollars; the State Treasurer shall receive an annual salary of one thousand dollars; the Auditor General shall receive an annual salary of one thousand dollars; the Superintendent of Public Instruction shall receive an annual salary of one thousand dollars; the Secretary of State shall receive an annual salary of eight hundred dollars; the Commissioner of the Land Office shall receive an annual salary of eight hundred dollars; the Attorney General shall receive an annual salary of eight hundred dollars. They shall receive no fees or perquisites whatever, for the performance of any duties connected with their offices. It shall not be competent for the Legislature to increase the salaries herein provided.

ARTICLE X.

COUNTIES.

Sec. 1. Each organized county shall be a body corporate, with such powers and immunities as shall be established by law. All suits and proceedings by or against a county shall be in the name thereof.

Sec. 2. No organized county shall ever be reduced by the organization of new counties to less than sixteen townships, as surveyed by the United States, unless, in pursuance of law, a majority of electors residing in each county to be affected thereby shall so decide. The Legislature may organize any city into a separate county, when it has attained a population of twenty thousand inhabitants, without reference to geographical extent, when a majority of the electors of a county in which such city may be situated, voting

thereon, shall be in favor of a separate organization.

Sec. 3. In each organized county there shall be a Sheriff, a County Clerk, a County Treasurer, a Register of Deeds and a Prosecuting Attorney, chosen by the electors thereof, once in two years, and as often as vacancies shall happen, whose duties and powers shall be prescribed by law. The board of supervisors in any county may unite the offices of County Clerk and Register of Deeds in one office, or disconnect the same.

Sec. 4. The sheriff, county clerk, county treasurer, judge of probate and register of deeds, shall hold their offices at the county seat.

Sec. 5. The sheriff shall hold no other office, and shall be incapable of holding the office of sheriff longer than four in any period of six years. He may be required by law to renew his security from time to time, and in default of giving such security, his office shall be deemed vacant. The county shall never be responsible for his acts.

Sec. 6. A board of supervisors, consisting of one from each organized township, shall be established in each county, with such powers as shall be prescribed by law.

Sec. 7. Cities shall have such representation in the board of supervisors of the counties in which they are situated, as the Legislature may direct.

Sec. 8. No county seat once established shall be removed until the place to which it is proposed to be removed shall be designated by two-thirds of the board of supervisors of the county, and a majority of the electors voting thereon shall have voted in favor of the proposed location, in such manner as shall be prescribed by law.

Sec. 9. The board of supervisors of any county may borrow or raise by tax one thousand dollars, for constructing or repairing public buildings, highways or bridges; but no greater sum shall be borrowed or raised by tax for such purpose in any one year, unless authorized by a majority of the electors of such county voting thereon.

Sec. 10. The board of supervisors, or in the county of Wayne, the board of county auditors, shall have the exclusive power to prescribe and fix the compensation for all services rendered for, and to adjust all

claims against, their respective counties; and the sum so fixed or defined shall be subject to no appeal.

Sec. 11. The board of supervisors of each organized county may provide for laying out highways, constructing bridges, and organizing townships, under such restrictions and limitations as shall be prescribed by law.

ARTICLE XI.

TOWNSHIPS.

Sec. 1. There shall be elected annually, on the first Monday of April, in each organized township, one supervisor, one township clerk, who shall be ex officio school inspector, one commissioner of highways, one township treasurer, one school inspector, not exceeding four constables, and one overseer of highways for each highway district, whose powers and duties shall be prescribed by law.

Sec. 2. Each organized township shall be a body corporate, with such powers and immunities as shall be prescribed by law. All suits and proceedings by or against a township, shall be in the name thereof.

ARTICLE XII.

IMPEACHMENTS AND REMOVALS FROM OFFICE.

Sec. 1. The House of Representatives shall have the sole power of impeaching civil officers for corrupt conduct in office, or for crimes and misdemeanors; but a majority of the members elected shall be necessary to direct an impeachment.

Sec. 2. Every impeachment shall be tried by the Senate. When the Governor or Lieutenant Governor is tried, the Chief Justice of the Supreme Court shall preside. When an impeachment is directed, the Senate shall take an oath or affirmation truly and impartially to try and determine the same according to the evidence. No person shall be convicted without the concurrence of two-thirds of the members elected. Judgment in case of impeachment shall not extend further than removal from office; but the party convicted shall be liable to punishment according to law.

Sec. 3. When an impeachment is directed, the House of Representatives shall elect from their own body three members, whose duty it shall be to prosecute such impeachment. No impeachment shall be tried until the final adjournment of the Le-

gisature, when the Senate shall proceed to try the same.

Sec. 4. No judicial officer shall exercise his office after an impeachment is directed, until he is acquitted.

Sec. 5. The Governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an officer until he shall be acquitted, or until after the election and qualification of a successor.

Sec. 6. For reasonable cause, which shall not be sufficient ground for the impeachment of a judge, the Governor shall remove him on a concurrent resolution of two-thirds of the members elected to each house of the Legislature; but the cause for which such removal is required, shall be stated at length in such resolution.

Sec. 7. The Legislature shall provide by law for the removal of any officer elected by a county, township or school district, in such manner and for such cause as to them shall seem just and proper.

ARTICLE XIII.

EDUCATION.

Sec. 1. The Superintendent of Public Instruction shall have the general supervision of public instruction, and his duties shall be prescribed by law.

Sec. 2. The proceeds from the sales of all lands that have been or hereafter may be granted by the United States to the State for educational purposes, and the proceeds of all lands or other property given by individuals, or appropriated by the State for like purposes, shall be and remain a perpetual fund, the interest and income of which, together with the rents of all such lands as may remain unsold, shall be inviolably appropriated and annually applied to the specific objects of the original gift, grant or appropriation.

Sec. 3. All land, the titles to which shall fail from a defect of heirs, shall escheat to the State; and the interest on the clear proceeds from the sales thereof, shall be appropriated exclusively to the support of primary schools.

Sec. 4. The Legislature shall, within five years from the adoption of this constitution, provide for and establish a system of primary schools, whereby a school shall be kept without charge for tuition, at least three months in each year, in every school district in the State; and all instruction in

said schools shall be conducted in the English language.

Sec. 5. A school shall be maintained in each school district, at least three months in each year. Any school district neglecting to maintain such school, shall be deprived for the ensuing year its proportion of the income of the primary school fund, and of all funds arising from taxes for the support of schools.

Sec. 6. There shall be elected in each judicial circuit, at the time of the election of the judge of such circuit, a regent of the University, whose term of office shall be the same as that of such judge. The regents thus elected shall constitute the board of regents of the University of Michigan.

Sec. 7. The regents of the University and their successors in office shall continue to constitute the body corporate, known by the name and title of "the regents of the University of Michigan."

Sec. 8. The regents of the University shall, at their first annual meeting, or as soon thereafter as may be, elect a president of the University, who shall be ex-officio a member of their board, with the privilege of speaking, but not of voting. He shall preside at the meetings of the regents, and be the principal executive officer of the University. The board of regents shall have the general supervision of the University, and the direction and control of all expenditures from the University interest fund.

Sec. 9. There shall be elected at the general election in the year one thousand eight hundred and fifty-two, three members of a State board of education; one for two years, one for four years, and one for six years; and at each succeeding biennial election there shall be elected one member of such board, who shall hold his office for six years. The Superintendent of Public Instruction shall be ex-officio a member and Secretary of such board. The board shall have the general supervision of the State Normal school, and their duties shall be prescribed by law.

Sec. 10. Institutions for the benefit of those inhabitants who are deaf, dumb, blind or insane, shall always be fostered and supported.

Sec. 11. The Legislature shall encourage the promotion of intellectual, scientific

and agricultural improvement; and shall, as soon as practicable, provide for the establishment of an agricultural school. The Legislature may appropriate the twenty-two sections of salt spring lands now unappropriated, or the money arising from the sale of the same, where such lands have been already sold, and any land which may hereafter be granted or appropriated for such purpose, for the support and maintenance of such school, and may make the same a branch of the University, for instruction in agriculture and the natural sciences connected therewith, and place the same under the supervision of the regents of the University.

Sec. 12. The Legislature shall also provide for the establishment of at least one library in each township; and all fines assessed and collected in the several counties and townships for any breach of the penal laws, shall be exclusively applied to the support of such libraries.

ARTICLE XIV.

FINANCE AND TAXATION.

Sec. 1. All specific State taxes, except those received from the mining companies of the upper peninsula, shall be applied in paying the interest upon the primary school, university and other educational funds, and the interest and principal of the State debt, in the order herein recited, until the extinguishment of the State debt, other than the amounts due to educational funds; when such specific taxes shall be added to, and constitute a part of the primary school interest fund. The Legislature shall provide for an annual tax, sufficient, with other resources, to pay the estimated expenses of the State government, the interest of the State debt, and such deficiency as may occur in the resources.

Sec. 2. The Legislature shall provide by law a sinking fund of at least twenty thousand dollars a year, to commence in eighteen hundred and fifty-two, with compound interest at the rate of six per cent. per annum, and an annual increase of at least five per cent., to be applied solely to the payment and extinguishment of the principal of the State debt, other than the amounts due to educational funds, and shall be continued until the extinguishment thereof. The unfunded debt shall not be funded or redeemed at a value exceeding

that established by law in one thousand eight hundred and forty-eight.

Sec. 3. The State may contract debts to meet deficits in revenues. Such debts shall not in the aggregate at any one time exceed fifty thousand dollars. The moneys so raised shall be applied to the purposes for which they were obtained, or to the payment of the debts so contracted.

Sec. 4. The State may contract debts to repel invasion, suppress insurrection, or defend the State in time of war. The money arising from the contracting of such debts shall be applied to the purpose for which it was raised, or to repay such debts.

Sec. 5. No money shall be paid out of the treasury except in pursuance of appropriations made by law.

Sec. 6. The credit of the State shall not be granted to or in aid of any person, association or corporation.

Sec. 7. No scrip, certificate, or other evidence of State indebtedness shall be issued, except for the redemption of stock previously issued, or for such debts as are expressly authorized in this constitution.

Sec. 8. The State shall not subscribe to or be interested in the stock of any company, association or corporation.

Sec. 9. The State shall not be a party to or interested in any work of internal improvement, nor engaged in carrying on any such work, except in the expenditure of grants to the State of land or other property.

Sec. 10. The State may continue to collect all specific taxes accruing to the treasury under existing laws. The Legislature may provide for the collection of specific taxes from banking, rail road, plank road, and other corporations hereafter created.

Sec. 11. The Legislature shall provide an uniform rule of taxation, except on property paying specific taxes; and taxes shall be levied on such property as shall be prescribed by law.

Sec. 12. All assessments hereafter authorized shall be on property at its cash value.

Sec. 13. The Legislature shall provide for an equalization by a State board in the year one thousand eight hundred and fifty-one, and every fifth year thereafter, of assessments on all taxable property except that paying specific taxes.

Sec. 14. Every law which imposes, continues or revives a tax, shall distinctly state the tax, and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such tax or object.

ARTICLE XV.

CORPORATIONS.

Sec. 1. Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes. All laws passed pursuant to this section, may be altered, amended or repealed.

Sec. 2. No banking law or law for banking purposes, or amendments thereof, shall have effect until the same shall, after its passage, be submitted to a vote of the electors of the State, at a general election, and be approved by a majority of the votes cast thereon at such election.

Sec. 3. The officers and stockholders of every corporation or association for banking purposes, issuing bank notes or paper credits to circulate as money, shall be individually liable for all debts contracted during the time of their being officers or stockholders of such corporation or association.

Sec. 4. The Legislature shall provide by law for the registry of all bills or notes issued or put in circulation as money, and shall require security to the full amount of notes and bills so registered, in State or United States stocks bearing interest, which shall be deposited with the State Treasurer for the redemption of such bills or notes in specie.

Sec. 5. In case of the insolvency of any bank or banking association, the bill holders thereof shall be entitled to preference in payment, over all other creditors of such bank or association.

Sec. 6. The Legislature shall pass no law authorizing or sanctioning the suspension of specie payments by any person, association or corporation.

Sec. 7. The stockholders of all corporations and joint stock associations shall be individually liable for all labor performed for such corporation or association.

Sec. 8. The Legislature shall pass no law altering or amending any act of incorporation heretofore granted, without the assent of two-thirds of the members elected to each house; nor shall any such act

be renewed or extended. This restriction shall not apply to municipal corporations.

Sec. 9. The property of no person shall be taken by any corporation for public use, without compensation being first made or secured, in such manner as may be prescribed by law.

Sec. 10. No corporation, except for municipal purposes, or for the construction of rail roads, plank roads and canals, shall be created for a longer time than thirty years.

Sec. 11. The term "corporations," as used in the preceding sections of this article, shall be construed to include all associations and joint stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. All corporations shall have the right to sue and be subject to be sued in all courts, in like cases as natural persons.

Sec. 12. No corporation shall hold any real estate hereafter acquired for a longer period than ten years, except such real estate as shall be actually occupied by such corporation in the exercise of its franchises.

Sec. 13. The Legislature shall provide for the incorporation and organization of cities and villages, and shall restrict their powers of taxation, borrowing money, contracting debts, and loaning their credit.

Sec. 14. Judicial officers of cities and villages shall be elected, and all other officers shall be elected or appointed at such time and in such manner as the Legislature may direct.

Sec. 15. Private property shall not be taken for public improvements in cities and villages without the consent of the owner, unless the compensation therefor shall first be determined by a jury of freeholders, and actually paid or secured in the manner provided by law.

Sec. 16. Previous notice of any application for an alteration of the charter of any corporation shall be given in such manner as may be prescribed by law.

ARTICLE XVI.

EXEMPTIONS.

Sec. 1. The personal property of every resident of this State, to consist of such property only as shall be designated by law, shall be exempted to the amount of not less than five hundred dollars, from sale on execution or other final process of any

court, issued for the collection of any debt contracted after the adoption of this constitution.

Sec. 2. Every homestead of not exceeding forty acres of land, and the dwelling house thereon, and the appurtenances to be selected by the owner thereof, and not included in any town plat, city or village; or instead thereof, at the option of the owner, any lot in any city, village or recorded town plat, or such parts of lots as shall be equal thereto, and the dwelling house thereon, and its appurtenances, owned and occupied by any resident of the State, not exceeding in value fifteen hundred dollars, shall be exempt from forced sale on execution, or any other final process from a court, for any debt contracted after the adoption of this constitution. Such exemption shall not extend to any mortgage thereon lawfully obtained; but such mortgage or other alienation of such land by the owner thereof, if a married man, shall not be valid without the signature of the wife to the same.

Sec. 3. The homestead of a family, after the death of the owner thereof, shall be exempt from the payment of his debts, contracted after the adoption of this constitution, in all cases during the minority of his children.

Sec. 4. If the owner of a homestead die, leaving a widow, but no children, the same shall be exempt, and the rents and profits thereof shall accrue to her benefit during the time of her widowhood, unless she be the owner of a homestead in her own right.

Sec. 5. The real and personal estate of every female, acquired before marriage, and all property to which she may afterwards become entitled by gift, grant, inheritance or devise, shall be and remain the estate and property of such female, and shall not be liable for the debts, obligations or engagements of her husband, and may be devised or bequeathed by her as if she were unmarried.

ARTICLE XVII.

MILITIA.

Sec. 1. The militia shall be composed of all able bodied white male citizens between the ages of eighteen and forty-five years, except such as are exempted by the laws of the United States or of this State; but all such citizens, of any religious de-

nomination whatever, who, from scruples of conscience, may be averse to bearing arms, shall be excused therefrom, upon such conditions as shall be prescribed by law.

Sec. 2. The Legislature shall provide by law for organizing, equipping and disciplining the militia, in such manner as they shall deem expedient, not incompatible with the laws of the United States.

Sec. 3. Officers of the militia shall be elected or appointed, and be commissioned in such manner as may be provided by law.

ARTICLE XVIII.

MISCELLANEOUS PROVISIONS.

Sec. 1. Members of the Legislature, and all officers, executive and judicial, except such officers as may by law be exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of this State, and that I will faithfully discharge the duties of the office of ——— according to the best of my ability." And no other oath, declaration or test shall be required as a qualification for any office or public trust.

Sec. 2. When private property is taken for the use or benefit of the public, the necessity for using such property, and the just compensation to be made therefor, except when to be made by the State, shall be ascertained by a jury of twelve freeholders, residing in the vicinity of such property, or by not less than three commissioners, appointed by a court of record, as shall be prescribed by law.

Sec. 3. No mechanical trade shall hereafter be taught to convicts in the State prison of this State, except the manufacture of those articles of which the chief supply for home consumption is imported from other States or countries.

Sec. 4. No navigable stream in this State shall be either bridged or dammed without authority from the board of supervisors of the proper county, under the provisions of law. No such law shall prejudice the right of individuals to the free navigation of such streams, or preclude the State from the

further improvement of the navigation of such streams.

Sec. 5. An accurate statement of the receipts and expenditures of the public moneys shall be attached to and published with the laws, at every regular session of the Legislature.

Sec. 6. The laws, public records, and the written judicial and legislative proceedings of the State shall be conducted, promulgated and preserved in the English language.

Sec. 7. Every person has a right to bear arms for the defence of himself and the State.

Sec. 8. The military shall, in all cases, and at all times, be in strict subordination to the civil power.

Sec. 9. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, except in a manner prescribed by law.

Sec. 10. The people have the right peaceably to assemble together, to consult for the common good, to instruct their representatives, and to petition the Legislature for redress of grievances.

Sec. 11. Neither slavery, nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this State.

Sec. 12. No lease or grant hereafter of agricultural land for a longer period than twelve years, reserving any rent or service of any kind, shall be valid.

Sec. 13. Aliens who are, or who may hereafter become, *bona fide* residents of this State, shall enjoy the same rights in respect to the possession, enjoyment and inheritance of property, as native born citizens.

Sec. 14. The property of no person shall be taken for public use without just compensation therefor. Private roads may be opened in the manner to be prescribed by law; but in every case the necessities of the road and the amount of all damage to be sustained by the opening thereof, shall be first determined by a jury of freeholders; and such amount, together with the expenses of proceedings, shall be paid by the person or persons to be benefitted.

Sec. 15. No general revision of the laws shall hereafter be made. When a reprint thereof becomes necessary, the Legislature in joint convention shall appoint a suita-

ble person to collect together such acts and parts of acts as are in force, and without alteration, arrange them under appropriate heads and titles. The laws so arranged shall be submitted to two commissioners appointed by the Governor for examination, and if certified by them to be a correct compilation of all general laws in force, shall be printed in such manner as shall be prescribed by law.

ARTICLE XIX.

UPPER PENINSULA.

Sec. 1. The counties of Mackinac, Chippewa, Delta, Marquette, Schoolcraft, Houghton and Ontonagon, and the islands and territory thereunto attached, the islands of Lake Superior, Huron and Michigan, and in Green Bay, and the straits of Mackinac and the River Ste Marie, shall constitute a separate judicial district, and be entitled to a district judge and district attorney.

Sec. 2. The district judge shall be elected by the electors of such district, and shall perform the same duties and possess the same powers as a circuit judge in his circuit, and shall hold his office for the same period.

Sec. 3. The district attorney shall be elected every two years by the electors of the district, shall perform the duties of prosecuting attorney throughout the entire district, and may issue warrants for the arrest of offenders in cases of felony, to be proceeded with as shall be prescribed by law.

Sec. 4. Such judicial district shall be entitled at all times to at least one Senator; and until entitled to more by its population, it shall have three members of the House of Representatives, to be apportioned among the several counties by the Legislature.

Sec. 5. The Legislature may provide for the payment of the district judge a salary not exceeding one thousand dollars a year, and of the district attorney not exceeding seven hundred dollars a year; and may allow extra compensation to the members of the Legislature from such territory, not exceeding two dollars a day during any session.

Sec. 6. The elections for all district or county officers, State Senator or Representatives, within the boundaries defined in this article, shall take place on the last

Tuesday of September in the respective years in which they may be required. The county canvass shall be held on the first Tuesday in October thereafter, and the district canvass on the last Tuesday of said October.

Sec. 7. One-half of the taxes received into the treasury from mining corporations in the upper peninsula paying an annual State tax of one per cent., shall be paid to the treasurers of the counties from which it is received, to be applied for township and county purposes, as provided by law. The Legislature shall have power, after the year one thousand eight hundred and fifty-five, to reduce the amount to be refunded.

Sec. 8. The Legislature may change the location of the State prison from Jackson to the Upper Peninsula.

Sec. 9. The charters of the several mining corporations may be modified by the Legislature, in regard to the term limited for subscribing to stock, and in relation to the quantity of land which a corporation shall hold; but the capital shall not be increased, nor the time for the existence of charters extended. No such corporation shall be permitted to purchase or hold any real estate, except such as shall be necessary for the exercise of its corporate franchises.

ARTICLE XX.

AMENDMENT AND REVISION OF THE CONSTITUTION.

Sec. 1. Any amendment or amendments to this constitution may be proposed in the Senate or House of Representatives. If the same shall be agreed to by two-thirds of the members elected to each house, such amendment or amendments shall be entered on their journals respectively, with the yeas and nays taken thereon, and the same shall be submitted to the electors at the next general election thereafter; and if a majority of the electors qualified to vote for members of the legislature voting thereon, shall ratify and approve such amendment or amendments, the same shall become part of the constitution.

Sec. 2. At the general election to be held in the year one thousand eight hundred and sixty-six, and in each sixteenth year thereafter; and also at such other times as the Legislature may by law provide, the question

of a general revision of the constitution shall be submitted to the electors qualified to vote for members of the legislature; and in case a majority of the electors so qualified, voting at such election, shall decide in favor of a convention for such purpose, the legislature, at the next session, shall provide by law for the election of delegates to such convention. All the amendments shall take effect at the commencement of the political year after their adoption:

SCHEDULE.

That no inconvenience may arise from the changes in the constitution of this State, and in order to carry the same into complete operation, it is hereby declared, that

Sec. 1. The common law and the statute laws now in force, not repugnant to this constitution, shall remain in force until they expire by their own limitations, or are altered or repealed by the Legislature.

Sec. 2. All writs, actions, causes of action, prosecutions and rights of individuals and of bodies corporate, and of the State, and all charters of incorporation, shall continue; and all indictments which shall have been found, or which may hereafter be found, for any crime or offence committed before the adoption of this constitution, may be proceeded upon as if no change had taken place. The several courts, except as herein otherwise provided, shall continue with the like powers and jurisdiction, both at law and in equity, as if this constitution had not been adopted, and until the organization of the judicial department under this constitution.

Sec. 3. That all fines, penalties, forfeitures, and escheats accruing to the State of Michigan under the present constitution and laws, shall accrue to the use of the State under this constitution.

Sec. 4. That all recognizances, bonds, obligations and all other instruments entered into or executed before the adoption of this constitution, to the people of the State of Michigan, to any State, county or township, or any public officer or public body, or which may be entered into or executed under existing laws "to the people of the State of Michigan," to any such officer or public body, before the complete organization of the departments of government under this constitution, shall remain binding and valid; and rights and liabilities

upon the same shall continue, and may be prosecuted as provided by law. And all crimes and misdemeanors and penal actions, shall be tried, punished and prosecuted, as though no change had taken place, until otherwise provided by law.

Sec. 5. A Governor and Lieutenant Governor shall be chosen under the existing constitution and laws, to serve after the expiration of the term of the present incumbent.

Sec. 6. All officers, civil and military, now holding any office or appointment, shall continue to hold their respective offices, unless removed by competent authority, until superseded under the laws now in force, or under this constitution.

Sec. 7. The members of the Senate and House of Representatives of the Legislature of one thousand eight hundred and fifty-one shall continue in office, under the provisions of law, until superseded by their successors, elected and qualified under this constitution."

Sec. 8. All county officers, unless removed by competent authority, shall continue to hold their respective offices until the first day of January, in the year one thousand eight hundred and fifty-three. The laws now in force as to the election, qualification and duties of township officers, shall continue in force until the Legislature shall, in conformity to the provisions of this constitution, provide for the holding of elections to fill such offices, and prescribe the duties of such officers respectively.

Sec. 9. On the first day of January, in the year one thousand eight hundred and fifty-two, the terms of office of the judges of the Supreme Court under existing laws, and of the judges of the County Courts, and of the clerks of the Supreme Court, shall expire on the said day.

Sec. 10. On the first day of January, in the year one thousand eight hundred and fifty-two, the jurisdiction of all suits and proceedings then pending in the present Supreme Court, shall become vested in the Supreme Court established by this constitution, and shall be finally adjudicated by the court where the same may be pending. The jurisdiction of all suits and proceedings at law and equity, then pending in the Circuit Courts and County Courts for the several counties, shall become vested

in the Circuit Court of the said counties, and District Court of the upper peninsula.

Sec. 11. The probate courts, the courts of justices of the peace, and the police court authorized by an act entitled "an act to establish a police court in the city of Detroit," approved April second, one thousand eight hundred and fifty, shall continue to exercise the jurisdiction and powers now conferred upon them respectively, until otherwise provided by law.

Sec. 12. The office of State printer shall be vested in the present incumbent until the expiration of the term for which he was elected under the law then in force; and all the provisions of the said law relating to his duties, rights, privileges and compensation, shall remain unimpaired and inviolate until the expiration of his said term of office.

Sec. 13. It shall be the duty of the Legislature, at their first session, to adapt the present laws to the provisions of this constitution, as far as may be.

Sec. 14. The Attorney General of the State is required to prepare and report to the Legislature, at the commencement of the next session, such changes and modifications in existing laws as may be deemed necessary to adapt the same to this constitution, and as may be best calculated to carry into effect its provisions; and he shall receive no additional compensation therefor.

Sec. 15. Any territory attached to any county for judicial purposes, if not otherwise represented, shall be considered as forming part of such county, so far as regards elections for the purpose of representation.

Sec. 16. This constitution shall be submitted to the people for their adoption or rejection, at the general election to be held on the first Tuesday of November, one thousand eight hundred and fifty; and there shall also be submitted for adoption or rejection, at the same time, the separate resolution in relation to the elective franchise; and it shall be the duty of the Secretary of State, and all other officers required to give or publish any notice in regard to the said general election, to give notice as provided by law in case of an election of Governor, that this constitution has been duly submitted to the electors at said election. Every newspaper within

this State publishing in the month of September next, this constitution as submitted, shall receive as compensation therefor, the sum of twenty-five dollars, to be paid as the Legislature shall direct.

Sec. 17. Any person entitled to vote for members of the Legislature, by the constitution and laws now in force, shall, at the said election, be entitled to vote for the adoption or rejection of this constitution, and for or against the resolution separately submitted, at the places and in the manner provided by law for the election of members of the Legislature.

Sec. 18. At the said general election, a ballot box shall be kept by the several boards of inspectors thereof, for receiving the votes cast for or against the adoption of this constitution; and on the ballots shall be written or printed, or partly written and partly printed, the words "adoption of the constitution—yes," or "adoption of the constitution—no."

Sec. 19. The canvass of the votes cast for the adoption or rejection of this constitution, and the provision in relation to the elective franchise separately submitted, and the returns thereof, shall be made by the proper canvassing officers, in the same manner as now provided by law for the canvass and return of the votes cast at an election for Governor, as near as may be; and the return thereof shall be directed to the Secretary of State. On the sixteenth day of December next, or within five days thereafter, the Auditor General, State Treasurer and Secretary of State shall meet at the Capitol, and proceed, in presence of the Governor, to examine and canvass the returns of the said votes, and proclamation shall forthwith be made by the Governor of the result thereof. If it shall appear that a majority of the votes cast upon the question have thereon "Adoption of the constitution—yes," this constitution shall be the supreme law of the State from and after the first day of January, one thousand eight hundred and fifty-one, except as is herein otherwise provided; but if a majority of the votes cast upon the question have thereon "Adoption of the constitution—no," the same shall be null and void. And in case of the adoption of this constitution, said officers shall immediately, or as soon thereafter as practicable, proceed to open the statements

of votes returned from the several counties for judges of the Supreme Court and State officers, under the act entitled "an act to amend the revised statutes and to provide for the election of certain officers by the people, in pursuance to an amendment of the constitution," approved February sixteenth, one thousand eight hundred and fifty, and shall ascertain, determine and certify the results of the election for said officers under said acts, in the same manner, as near as may be, as is now provided by law in regard to the election of Representatives in Congress. And the several judges and officers so ascertained to have been elected, may be qualified and enter upon the duties of their respective offices, on the first Monday of January next, or as soon thereafter as practicable.

Sec. 20. The salaries or compensation of all persons holding office under the present constitution shall continue to be the same as now provided by law, until superseded by their successors elected or appointed under this constitution; and it shall not be lawful hereafter for the Legislature to increase or diminish the compensation of any officer during the term for which he is elected or appointed.

Sec. 21. The Legislature, at their first session, shall provide for the payment of all expenditures of the Convention to revise the constitution, and of the publication of the same as is provided in this article.

Sec. 22. Every county except Mackinac and Chippewa, entitled to a representative in the Legislature, at the time of the adoption of this constitution, shall continue to be so entitled under this constitution; and the county of Saginaw, with the territory that may be attached, shall be entitled to one Representative; the county of Tuscola, and the territory that may be attached, one Representative; the county of Sanilac, and the territory that may be attached, one Representative; the counties of Midland and Aronac, with the territory that may be attached, one Representative; the county of Montcalm, with the territory that may be attached thereto, one Representative; and the counties of Newaygo and Oceana, with the territory that may be attached thereto, one Representative. Each county having a ratio of representation and a fraction over, equal to a moiety of said ratio, shall be entitled to two representatives,

and so on above that number, giving one additional member for each additional ratio.

Sec. 23. The cases pending and undisposed of in the late court of chancery, at the time of the adoption of this constitution, shall continue to be heard and determined by the judges of the Supreme Court. But the Legislature shall, at its session in one thousand eight hundred and fifty-one, provide by law for the transfer of said causes that may remain undisposed of on the first day of January, one thousand eight hundred and fifty-two, to the Supreme or Circuit Court, established by this constitution, or require that the same may be heard and determined by the circuit judges.

Sec. 24. The term of office of the Governor and Lieutenant Governor shall commence on the first day of January next after their election.

Sec. 25. The territory described in the article entitled "Upper Peninsula," shall be attached to and constitute a part of the third circuit for the election of a regent of the University.

Sec. 26. The Legislature shall have authority, after the expiration of the term of office of the district judge first elected for the upper peninsula, to abolish said office of district judge and district attorney, or either of them.

Sec. 27. The Legislature shall, at its session of one thousand eight hundred and fifty-one, apportion the Representatives among the several counties and districts, and divide the State into Senate districts, pursuant to the provisions of this constitution.

Sec. 28. The terms of office of all State and county officers, of the circuit judges, members of the board of education, and members of the Legislature, shall begin on the first day of January next succeeding their election.

Sec. 29. The State, exclusive of the upper peninsula, shall be divided into eight judicial circuits, and the counties of Monroe, Lenawee and Hillsdale shall constitute the first circuit; the counties of Branch, St. Joseph, Cass and Berrien, shall constitute the second circuit; the county of Wayne shall constitute the third circuit; the counties of Washtenaw, Jackson and Ingham shall constitute the fourth circuit; the counties of Calhoun, Kalamazoo, Allegan, Eaton and Van Buren, shall constitute the fifth

circuit; [the] counties of St. Clair, Macomb, Oakland and Sanilac shall constitute the sixth circuit; the counties of Lapeer, Genesee, Saginaw, Shiawassee, Livingston, Tuscola and Midland shall constitute the seventh circuit; and the counties of Barry, Kent, Ottawa, Ionia, Clinton and Montcalm shall constitute the eighth circuit."

RESOLUTION.

Sec. 30. At the next general election, and at the same time when the votes of the electors shall be taken for the adoption or rejection of this constitution, an additional amendment to section one of article seven, in the words following:

"Every colored male inhabitant possessing the qualifications required by the first section of the second article of the constitution, shall have the rights and privileges of an elector,"

Shall be separately submitted to the electors of this State for their adoption or rejection, in form following, to wit: A separate ballot may be given by every person having the right to vote for the revised constitution, to be deposited in a separate box. Upon the ballots given for the adop-

tion of the said separate amendment shall be written or printed, or partly written and partly printed, the words "Equal suffrage to colored persons? Yes;" and upon all ballots given against the adoption of the said separate amendment, in like manner, the words "Equal suffrage to colored persons? No." And on such ballots shall be written or printed, or partly written and partly printed, the words "Constitution: Suffrage," in such manner that such words shall appear on the outer side of such ballot when folded. If, at said election, a majority of all the votes given for and against the said separate amendment shall contain the words "Equal suffrage to colored persons? Yes;" then there shall be inserted in the first section of the article, between the words "tribe" and "shall," these words: "and every colored male inhabitant," anything in the constitution to the contrary notwithstanding."

Done in Convention, at the capitol of the State, this fifteenth day of August, in the year of our Lord one thousand eight hundred and fifty, and of the Independence of the United States the seventy-fifth.

D. GOODWIN, *President*.

OKA TOWN,
J. W. T. ORR,
JACOB BEESON,
CALVIN BRITAIN,
CHARLES W. WHIPPLE,
ASAHEL BROWN,
WALES ADAMS,
ISAAC E. CRARY,
JOHN D. PIERCE,
NATHAN PIERCE,
MILO SOULE,
WILLIAM V. MORRISON,
GEO. REDFIELD,
DAVID STURGIS,
JOHN D. BURNS,
CHAS. E. BEARDSLEY,
JOHN BARTOW,
ELBRIDGE G. GALE,
D. W. C. LEACH,
JOHN MOSHER,
DANIEL KINNE,
E. B. DANFORTH,
C. P. BUSH,
HENRY BARTOW,
CYRUS LOVELL,
J. L. BUTTERFIELD,
R. H. ANDERSON,

GEO. C. HARVEY,
E. BARNARD,
DANIEL S. LEE,
ROBERT CROUSE,
ROBERT WARDEN, Jr.,
WILLIAM NORMAN McLEOD,
C. W. CHAPEL,
A. S. ROBERTSON,
D. C. WALKER,
R. McCLELLAND,
ALEXANDER M. ARZENO,
HENRY B. MARVIN,
EMERSON CHOATE,
G. O. WHITEMORE,
J. VAN VALKENBURGH,
JAMES WEBSTER,
ELIAS S. WOODMAN,
A. H. HANSCOM,
Z. M. MOWRY,
SENECA NEWBERRY,
WILLIAM AXFORD,
E. S. MOORE,
WM. CONNER,
JOSEPH R. WILLIAMS,
F. J. PREVOST,
ELIAS M. SKINNER,
EARL P. GARDINER,

E. S. ROBINSON,
W. F. STOREY,
J. G. CORNELL,
VOLNEY HASCALL,
RIX ROBINSON,
THOMAS B. CHURCH,
NOAH H. HART,
J. R. WHITE,
CHARLES CHANDLER,
ADDISON J. COMSTOCK,
EBENEZER DANIELS,
NELSON GREEN,

MORGAN O'BRIEN,
JAMES M. EDMUNDS,
BENJ. W. WAITE,
WM. S. CARR,
JAMES KINGSLEY,
PETER DESNOYERS,
AMMON BROWN,
E. C. EATON,
JOSEPH H. BAGG,
HENRY FRALICK,
JOHN GIBSON,
H. J. ALVORD.

JOHN SWEGLES, Jr.,
HORACE S. ROBERTS, } *Secretaries.*
CHARLES HASCALL,

I hereby certify the above and foregoing to be a true copy of the enrolled Constitution of the State of Michigan, as filed in the office of the Secretary of State, August 15, 1850, except the words included in brackets, which are not in said copy.

ROD. R. GIBSON, *Dep'y Sec'y of State.*

I certify that the words included in brackets were in the Constitution as passed by the Convention, and in the copy furnished the enrolling committee.

JOHN SWEGLES, Jr., *Principal Sec'y of Convention.*

STATEMENT OF VOTES

GIVEN at the General Election, held within the State of Michigan, on Tuesday, the fifth day of November, A. D. 1850, for and against the adoption of the Constitution passed in Convention August fifteenth, 1850, and submitted for adoption or rejection to the people of said State, in compliance with the provisions of sections 16, 17, 18 and 19 of the Schedule of said Constitution:

COUNTIES.	Adoption of the Constitution, "Yes."	Adoption of the Constitution, "No."	Blank.	Total.
Allegan,	509	107	4	620
Barry,	629	52		681
Berrien,	989	255		1244
Branch,	1280	198		1478
Calhoun,	2340	180		2520
Cass,	1069	323		1392
Chippewa,	16	18		34
Clinton,	555	92		647
Eaton,	809	204	7	1020
Genesee,	1109	297		1406
Hillsdale,	1360	152		1512
Houghton,	40	43		83
Ingham,	1000	300		1300
Ionia,	842	144		986
Jackson,	1810	597		2407
Kalamazoo,	1140	228		1368
Kent,	1225	248		1473
Lapeer,	505	258		763
Lenawee,	2692	246		2938
Livingston,	1519	306		1825
Mackinac,	20	88		108
Macomb,	1294	582	2	1878
Monroe,	1429	64		1493
Montcalm,	130	9		139
Oakland,	2530	1384		3914
Ottawa,	314	133		447
Saginaw,	139	148		287
Shiawassee,	549	275		824
St. Clair,	633	230		863
St. Joseph,	1411	256	8	1675
Sanilac,	91	70		161
Tuscola,	54	1		55
Van Buren,	648	160		808
Washtenaw,	3082	309		3391
Wayne,	2407	1476	4	3887
Total,	36169	9433	25	45627

The whole number of votes given at said election for and against the adoption of the Constitution was forty-five thousand six hundred and twenty-seven; of which votes thirty-six thousand one hundred and sixty-nine were given for the adoption of the said Constitution; nine thousand four hundred and thirty-three were given for the rejection of said Constitution; and twenty-five were blanks.

We certify the foregoing to be a correct statement of the

votes given in the State of Michigan, for and against the adoption of the Constitution, submitted to the people thereof at the said election holden on the fifth day of November, A. D. 1850, as appears from the canvass and examination made by us in presence of John S. Barry, Governor of said State, of the statements of votes given in the several counties, received by the Secretary of State from the respective county Clerks, duly certified under their hands and seals of office.

In witness whereof, we have hereunto set our names, at the office of the Secretary of State, this nineteenth day of December, A. D. 1850.

C. H. TAYLOR, Secretary of State.
R. C. WHITTEMORE, State Treas'r,
JOHN J. ADAM, Auditor General,
Board of State Canvassers.

By the Governor of the State of Michigan.

A PROCLAMATION.

Whereas, by the schedule appended to the Constitution for the State of Michigan, submitted to the people by a convention of delegates at the Capitol of said State, the fifteenth day of August in the year of our Lord one thousand eight hundred and fifty, it is provided that on the sixteenth day of December then next, or within five days thereafter, the Auditor General, State Treasurer, and Secretary of State, shall meet at the Capitol and proceed in presence of the Governor to examine and canvass the returns of the votes cast for and against the adoption of said Constitution; and whereas, the officers above named, in presence of the Governor, having performed said duty within the time prescribed, and on the canvass of said votes, found that the total number given was forty-five thousand six hundred and twenty-seven; of which thirty-six thousand one hundred and sixty-nine, were given in favor of the adoption of said Constitution; nine thousand four hundred and thirty-three against its adoption; and twenty-five blank; Now, therefore, I, John S. Barry, Governor of said State of Michigan, as by said schedule required, do issue this my Proclamation, to make known that said Constitution has been duly adopted by a majority of the votes given upon the question of its adoption.

Done at Lansing, in said State, this nineteenth day of December, in the year of our

[L. S.] Lord one thousand eight hundred and fifty, and of the Independence of the United States the seventy-fifth.

By the Governor: JNO. S. BARRY.

C. H. TAYLOR, Secretary of State.

NOTE.

The Reporter appointed and required, under the resolution of August 14th, to superintend the publication of the Debates in the Convention, begs leave to state that in performing that duty he met with some difficulty, and therefore the work is not so complete as otherwise would have been the case, from the fact that several members took home their speeches to review, neglecting to return them. Owing to this, the Debates, in a few instances, appear somewhat disjointed and abrupt. Such as were returned before the volume was completed, will be found inserted in the Appendix.

CONVENTION

OF THE

STATE OF MICHIGAN.

HALL OF THE HOUSE OF REPRESENTATIVES,
LANSING, MONDAY, JUNE 3, 1850.

In pursuance of the Act, approved March 9, 1850, providing "for the time, place, and manner of holding the Convention to Revise the Constitution," the Delegates assembled at the Capitol this day.

At 2 o'clock P. M., the Hon. CHARLES H. TAYLOR, Secretary of State, appeared and stated that he was present with the official List of Delegates, with the exception of Shiawassee county, returns from which had not been received.

He then proceeded to call the List, and all the Delegates answered to their names, except JOHN B. GRAHAM, of Hillsdale, CYRUS LOVELL, of Ionia, EBENEZER DANIELS, of Lenawee, HIRAM HATHAWAY, of Macomb, LORENZO M. MASON and REUBEN B. DIMOND, of St. Clair, and JAMES M. EDMUNDS, of Washtenaw.

Hon. F. J. PREVOST, of Shiawassee, afterwards presented his credentials and took his seat.

On motion of Mr. KINGSLEY, ISAAC E. CRARY, of Calhoun county, was appointed President *pro tem.*; and

On motion of Mr. HANSCOM, D. P. BUSHNELL, of Wayne, was appointed Secretary *pro tem.*

On motion of Mr. RAYNALE, DIODATE HUBBARD was appointed Sergeant-at-Arms, *pro tem.*

Mr. KINGSLEY moved that the Convention proceed to the election of a President.

The CHAIR stated that the law provided that the election should be by ballot. He did not consider that provision of the act binding upon the Convention; but if no

other mode was proposed, the election would be proceeded with in the manner prescribed.

Mr. McCLELLAND said: Mr. President, it is unusual to vote for the election of the presiding officer, in a body like this, by ballot. I do not think the Legislature had power over this matter. So far as I know, bodies like this vote *viva voce*. I am in favor of it, and therefore move that we proceed to vote for President *viva voce*.

Mr. WITHERELL said he did not think it absolutely necessary to go to the law for authority, but it might be a question of expediency. The law provides that the President shall be elected by ballot.

Mr. McCLELLAND—My object in making the motion was to save time. If there is to be any discussion, I will withdraw the motion.

Mr. J. D. PIERCE inquired if the constitution did not require a *viva voce* vote.

The CHAIR—Not in this case.

Mr. HANSCOM renewed the motion. The provision of the act had no power to bind the action of the convention. The Legislature (said Mr. H.) might as well have gone on and dictated the mode of all our proceedings. He would prefer the mode of election usually adopted in such bodies as this.

Mr. ROBERTS said it appeared to him, if the motion were carried, the Convention

would be repudiating the action of the Legislature before its organization was completed. We may as well take a vote repudiating our own election.

Mr. McLEOD moved to lay the resolution on the table. Lost.

Mr. WITHERELL read the provision of law. He did not consider it binding on the Convention.

Mr. Redfield believed the law to be obligatory on the members. We cannot organize (said Mr. R.,) till we have complied with the provisions of law. When we have become organized we shall be in a different position.

The motion did not prevail, and the Convention proceeded to elect by ballot.

Messrs. STOREY, of Jackson county, and HANSCOM, of Oakland, having been appointed tellers, and the ballots having been counted, the following was the result:

For DANIEL GOODWIN,	75
" H. T. BACKUS,	3
" C. W. WHIPPLE,	2
" J. R. WILLIAMS,	3
" D. C. WALKER,	1
" I. E. CRARY,	2
" B. F. H. WITHERELL,	1
" H. G. WELLS,	1
" N. PIERCE,	1
" W. F. STOREY,	1

The PRESIDENT *pro tem.* announced that DANIEL GOODWIN, of Wayne county, having received the highest number of votes, was duly appointed President of the Convention.

On motion of Mr. WHIPPLE, of Berrien county,

A committee of two was ordered to be appointed to wait upon the President elect and conduct him to the chair.

The PRESIDENT *pro tem.* appointed Messrs WHIPPLE, of Berrien, and McCLELLAND, of Monroe, such committee.

The PRESIDENT having taken the chair, addressed the Convention as follows:
Gentlemen of the Convention:

I tender to you my sincere thanks for the flattering expression of your confidence in selecting me to preside over your deliberations upon this interesting occasion. When I look around this Hall and behold congregated here so much of ability, of intelligence, and of experience in public affairs—so many who have occupied various stations in different depart-

ments of public service, with honor to themselves and usefulness to their fellow-citizens; and when I consider further the importance of the objects for which we are convened, I cannot but be impressed with deep sensibility for the distinguished honor conferred. The best requital which I can make will be in the devotion of my best powers to the faithful and impartial performance of the highly responsible duties of the station. This I shall endeavor to do in all sincerity. And though I do not bring to the task great familiarity with Parliamentary proceedings, yet with the aid (which I doubt not will be kindly and generously accorded) of the knowledge and experience that pervade this assembly of representatives of enlightened and free citizens, it is my hope that I shall be enabled so to fulfill it as to meet your approbation.

In conclusion, allow me to express the fervent desire that our deliberations may be so guided by that All-Wise Being in whose hands are the destinies of States and Nations, that their results may tend to establish more firmly and permanently those benign principles of civil freedom and popular sovereignty upon which our institutions are based, and promote in the highest degree the prosperity of our State and the happiness of our people.

On motion of Mr. COOK, of Hillsdale county, it was

Resolved, That John SWEGLES, Jr., be and he is hereby appointed Secretary of this Convention.

Resolved further, That HORACE S. ROBERTS and CHARLES HASCALL be and they hereby are appointed Assistant Secretaries of this Convention.

Mr. HANSCOM offered a resolution, that the rules of the last House of Representatives be adopted, so far as they are applicable to the proceedings of this Convention, till otherwise ordered.

Mr. WITHERELL saw no necessity for the adoption of the resolution. It would be difficult to know what were applicable and what were not; a committee might be appointed that would shortly report rules which would be altogether applicable. There were probably not more than three members of the Convention who were in possession of the rules of the House.

Mr. HANSCOM contended that the

Convention ought to have some rules for its government till a committee could prepare and report rules. At present (said Mr. H.) we are acting without any rule. The resolution was adopted.

On motion of Mr. ROBERTS,

Resolved, That David Hubbard be appointed Sergeant-at-Arms of this Convention. Adopted.

By Mr. KINGSLEY:

Resolved, That a committee of seven be appointed to prepare rules for the government of this Convention in its proceedings. Adopted.

MESSRS. KINGSLEY, BRITAIN, McCLELLAND, TIFFANY, BACKUS, WALKER and HANSCOM were appointed such committee.

Mr. CRARY offered the following:

Resolved, That the President of this Convention appoint a door-keeper and four messengers.

Mr. FRALICK moved to strike out the words "door-keeper and."

Mr. CRARY wished the gentleman to explain whether he did not think the Chair competent to appoint, or whether he considered a door-keeper unnecessary. Mr. C. said, it is necessary that we should have somebody to take care of the House, and clean the room, so that we may sit here in health and comfort. It is not the duty of the sergeant-at-arms or the messengers—it has usually been done by the fireman; but as the weather will probably be so warm that we shall not need fires, it would be more proper to appoint a person as door-keeper with instructions to attend to those duties.

Mr. FRALICK—The office is unnecessary. There is one more secretary appointed than is necessary.

Mr. CRARY—The secretary will not sweep the floor.

Mr. FRALICK—Perhaps not—we have been elected here because the taxes are too high. The law that called the Convention says nothing about a door-keeper. Under that we have no authority to appoint.

Mr. WITHERELL expressed his opinion to be in favor of the appointment.—Adopted.

Mr. McCLELLAND offered the following:

Resolved, That a committee of nine be appointed by the President, to report the best

mode of proceeding to revise the Constitution of the State.

Mr. McC. said he found this was usually the first proceeding of a convention. He was in favor of getting speedily to work, that they might have more time for review; a committee of this kind can so arrange the details that we can accomplish the work in a short time. Adopted.

By Mr. COOK:

Resolved, That there be printed for the use of this Convention 500 copies of the daily journal.

Mr. REDFIELD proposed to amend by inserting 1000. Amendment accepted and resolution adopted.

By Mr. COOK:

Resolved, That the daily sessions of the Convention shall commence at ten o'clock, A. M., until otherwise ordered.

Mr. BUSH would prefer meeting at nine.

Mr. COOK accepted the suggestion, and the resolution was adopted.

Mr. HASCALL offered a resolution that the members of the Convention go into a draft for their respective seats.

Mr. CLARK said there were a number of gentlemen of the Convention who should have seats, and cannot find any. How those gentlemen who had seats had obtained them, was a mystery to him. He thought it would be most proper to distribute them by draft.

Mr. HANSCOM said the law of the state provided against lotteries. He considered the proposition of the gentlemen from Kalamazoo a species of gambling to which he had most serious objections.

Mr. DIMOND asked for the ayes and noes, which were ordered, and the motion was negatived.

Mr. BRITAIN offered the following:

Resolved, That the State Printer be instructed to forward, by mail, one copy of the daily journal to the publishers of each newspaper published in the state, during the session of the Convention.

Mr. B. said the object of the resolution was to get the proceedings of the convention placed in the hands of the people at as little expense as possible. The journals would be republished in the newspapers. The sending of journals by members was done at an expense of time which could be devoted to more useful purposes. Carried.

A resolution was offered requiring the Sergeant-at-Arms to furnish the members of the Convention with stationery.

Mr. EATON thought it would be like requiring a constable to pay the cost of a suit.

Mr. BUSH inquired if it was not required by provisions of law that the Secretary of State should furnish stationery to the members of the Convention.

The resolution was withdrawn.

Mr. STOREY offered the following:

Resolved, That a committee of three be appointed to inquire into the propriety of procuring the services of three reporters to report the proceedings and debates of this Convention. Adopted.

Mr. BUTTERFIELD offered the following:

Resolved, That the Secretary of the Convention be instructed to procure papers equal to one daily paper for each delegate, of such papers as each delegate shall direct.

Mr. J. D. PIERCE raised the question, whether there was any provision made by law for the payment of those papers. He believed there was no such provision made by law for such payment, and if not, the Secretary could not draw on the treasury for the funds.

Mr. BUTTERFIELD believed the members of the Convention were entitled to all the privileges of members of the Legislature.

Mr. WITHERELL read the provision of the law in relation to the subject—it provides that the Convention may furnish for its own use such stationery as is necessary.

The resolution was not adopted.

Mr. HANSCOM offered a resolution that a committee of three be appointed to inquire what arrangements, if any, can be made in reference to postage.

Mr. WITHERELL moved to add that the committee further inquire into the propriety or means of furnishing newspapers to members.

The amendment was accepted and the resolution adopted.

Messrs. HANSCOM, DANFORTH and BRITAIN were appointed such committee.

Mr. CROUSE offered a resolution instructing the committee on rules to procure the rules which shall be adopted, to be

printed, with the Constitution of the State, &c., and such information as is embraced in the manual of the Legislature of 1850.

On motion of Mr. WITHERELL, the resolution was laid on the table.

On motion of Mr. WHITE,

Resolved, That a committee of five be appointed by the chair to furnish the members of the convention with stationery.

Mr. COOK moved to amend by adding not exceeding in value five dollars to each member.

On motion of Mr. HANSCOM, the resolution and amendment were laid on the table.

On motion of Mr. J. D. PIERCE, the Convention adjourned.

TUESDAY, (2d day,) June 4.

The roll was called, the journal read and approved.

The PRESIDENT announced the following committees appointed under resolutions of yesterday:

Committee on resolution as to reporters—Messrs. STOREY, CHURCH and WELLS.

Committee on resolution as to mode of proceedings, &c.—Messrs. McCLELLAND, CRARY, S. CLARK, TIFFANY, WILLIAMS, R. ROBINSON, WHITTEMORE, WALKER and WITHERELL.

Mr. VAN VALKENBURG offered the following:

Resolved, That a committee of two be appointed to invite the resident clergymen of this place to meet with us alternately, and open our daily sessions with devotional exercises.

Mr. ROBERTS moved to lay the resolution on the table, which motion did not prevail; and the question being on its adoption,

Mr. VAN VALKENBURG said, I offered this resolution, Mr. President, in the confident hope it would find a ready response in the bosom of every member of this Convention. The business which has assembled us here is of the most vital interest to the citizens of our State and to the permanency of our free institutions. On an occasion of this kind it appears to me, Mr. President, that we need pre-eminently, as your honor observed yesterday, the direction of that All-Wise Being who guides the destinies of States and of Nations. There are many upon this floor,

sir, who would fear to enter upon the ordinary duties of life without first acknowledging their dependence, and seeking from on high that wisdom which is profitable to direct; much more, sir, in our present capacity, do we need to invoke the guidance of that All-Wise Being who not only orders the destinies of States and of Nations, but who notes all our conduct, and to whom we must soon render an account of our stewardship. I did hope, sir, in view of our high responsibilities and the vast importance of the business before us, this resolution would at least find no opposition in this intelligent body, and still trust upon sober reflection the votes of all its members will be recorded in its favor.

The resolution was then adopted, yeas 73, nays 16.

On motion of Mr. ROBERTS, the thanks of the Convention were tendered to Mr. BUSHNELL for his efficient services as Secretary *pro tem*.

On motion of Mr. ROBERTS,

Resolved, That a committee of three be appointed to make arrangements for the raising of the national flag at the hour of the opening of the daily sessions of this Convention.

On motion of Mr. WITHERELL,

Resolved, That his Excellency, the Governor, be invited by the President to take a seat within the bar of the Convention during its session.

Mr. WELLS offered the following:

Resolved, That the Sergeant-at-arms be instructed not to allow strangers to come within the bar, except those introduced by members or officers of this Convention.

Mr. W. said he regretted exceedingly the necessity which called for the introduction of this resolution. He should wish the eyes of ten thousand of the people were resting on the Convention during the deliberation of its members, but the experience of yesterday showed the necessity for the adoption of the resolution.

Mr. HANSCOM said strangers were excluded from within the bar by the existing rules under which the Convention was acting.

Mr. WELLS—In that case I withdraw the motion.

Mr. WITHERELL would merely remark that the inconvenience to which members were subject yesterday arose

from the natural curiosity of the public to witness the opening of the Convention. It had abated to-day, and would in a few days altogether cease.

Mr. McCLELLAND offered the following:

Resolved, That the committee relative to reporters, &c., be instructed to inquire into the propriety of having the proceedings of the Convention published in the German language.

Mr. McC. said he offered it as a matter of inquiry. He had received a communication from the Germans themselves on the subject. We have, (said Mr. McC.,) a great many German emigrants in the country who do not understand the English language, who are desirous of becoming acquainted with the principles of our government and our political institutions. I propose to the committee to inquire into the expediency of the measure. If it should be found impracticable they must report against it.

Mr. REDFIELD hoped it would be submitted to the consideration of the committee. The German emigration was daily settling in our State. We are inviting them here and should give them every facility in our power for becoming acquainted with our institutions.

Mr. CRARY proposed to add, "and in the Dutch language."

Mr. WITHERELL would also add "French." The French inhabitants had occupied the soil for more than one hundred and fifty years, and were entitled to some consideration. It was not so much a question of expense as expediency. He moved to add "the French language," also.

Mr. McCLELLAND said he had discharged the duty imposed upon him by a part of his constituents. He had offered the proposition at their request. There was a respectable German paper published in the State, so that there would be no difficulty in getting the proceedings published in that language.

Mr. J. CLARK hoped the resolution would be adopted; it certainly could do no harm, as it was merely a resolution of inquiry. He knew there was a great interest felt among our German population to become acquainted with the machinery of our government; they apply to be nat-

uralized and to become citizens. So long as they are desirous of acquiring information relative to our institutions and the principles of our government, it seems proper and necessary that an inquiry should be instituted relative to such information being communicated to them.

Mr. CRARY said as it was only a resolution of inquiry it would be only ordinary courtesy to adopt it. There were a great number of Dutch settled in the State. The gentleman from St. Clair seemed to think that they spoke the same language as the German, but that was not the case. He should also support the amendment to include the French language.

Mr. BAGG was in favor of the original resolution, as amended by the gentleman from Calhoun, and opposed to the other amendments. So far as he was acquainted with the French population along the Detroit river, all those that can read, understand the English language. The resolution as amended was adopted.

Mr. J. D. PIERCE called up the resolution offered yesterday by Mr. WHITMORE, that a committee of three be appointed to furnish for the use of the Convention, such stationery as is allowed by law.

Mr. WHITE moved to amend by adding "and to the officers of the Convention such stationery as they may require," which was accepted.

Mr. CRARY moved to add: "provided the allowance to each member do not exceed the sum of five dollars."

Mr. C. said he offered the amendment because the allowance by law was unlimited. He believed and knew from his own experience that stationery to the amount, in value, of five dollars would be amply sufficient for each member.

Mr. FRALICK moved to strike out "five," and insert "three." The question was taken on striking out and lost.

Mr. HANSCOM thought it unnecessary to appoint a special committee for the purpose. The standing committee on supplies would soon be appointed. He moved to lay on the table. Lost.

The amendment offered by Mr. CRARY prevailed.

Mr. STOREY moved to strike out "a committee of three," and insert "the

committee on supplies;" and the resolution so amended was adopted.

Mr. CORNELL offered a resolution requiring the Secretary of State to furnish copies of the Constitutions of certain specified States for the use of the Convention. The Constitutions of other States were proposed to be added, by different members.

Mr. C. thought it of importance that copies of the Constitution of those States should be accessible to members for the use of the Convention. He had inquired of the Secretary of State, and no provision had been made for it by the last Legislature.

Mr. COOK moved to amend by directing the Secretary of State to cause the Constitutions of those States to be printed for the use of the Convention.

Mr. WALKER thought that proposition would not facilitate the progress of the Convention in revising the Constitution of Michigan. He hoped the Constitution would be revised and that he should be at home before, by any possibility, the printing of those Constitutions could be effected.

Mr. REDFIELD was of opinion that copies sufficient for the use of the Convention might be obtained from individuals. He was opposed to any unnecessary expense or delay.

Mr. CORNELL believed a sufficient number of copies might be obtained from the State Library and from individuals without expense.

Mr. STOREY thought if anything of this kind was necessary, it would be better to send to New York. A work had been published which contains all those constitutions.

Mr. CORNELL said his object had been in part accomplished by calling the attention of the Convention to the subject. He asked to withdraw the resolution, which was granted.

Mr. STOREY offered a resolution that the Secretary of State be instructed to procure — copies of a work containing the Constitutions of the several States for the use of the Convention.

Mr. WITHERELL moved to fill the blank with 10.

Mr. J. D. PIERCE moved to insert 20.

Mr. BAGG moved to insert 100. He thought every member of the Convention

should be in possession of as much information in relation to those subjects as the committees, or they would not be fully prepared to act upon the reports of those committees.

Mr. EATON inquired how they were to be paid for; if the money was to come out of the appropriation to members for stationery, he had no objection to the largest number.

Mr. CROUSE said it was immaterial to him whether the blank was filled with twenty or one hundred. He was opposed to and should vote against the resolution in any shape. We, (said Mr. C.) as a people, have a very good constitution; it wants but few amendments, and those amendments are indicated to us by the wishes of the people. The people know what they want, and the amendments they require are but few. It is of little importance to us what constitutions the States of Kentucky or Mississippi, or California may have; they may be adapted to their wants, or the habits and character of their people, but would probably be unsuitable to the habits and character of our people. We are not sent here to telegraph from one end of the Union to the other, from Maine to California, for constitutions upon which to model our own, but to make those few amendments to our excellent constitution which the people require. I am desirous, (said Mr. C.,) to save time by coming to a direct vote on the question.

Mr. WITHERELL moved to add that the copies at the end of the session be deposited in the State Library.

Mr. FRALICK moved that the resolution and proposed amendments be laid on the table, which prevailed.

The PRESIDENT announced a communication from the Secretary of State, in relation to the expenses of the Circuit Courts and the expenses of the County Courts in the several counties of the State, which had been ordered by resolution of the last Legislature.

Five hundred copies were ordered to be printed.

Mr. KINGSLEY, from the committee appointed to prepare rules, reported.

The report was ordered to be printed.

The CHAIR announced the appointment of a Door-keeper and Messengers.

On motion, the Convention adjourned.

WEDNESDAY, (3d day,) June 5.

Prayer by the Rev. Mr. ATTERBURY.

The roll called. Journal read and corrected.

REPORTS.

Mr. McCLELLAND, from the committee appointed to report as to the best mode of proceeding to the revision of the Constitution of the State, reported.

Mr. McC. said the committee had arranged the subjects for the consideration of the committees, in conformity with the present Constitution of the State. In all cases where they could do so, they had divided the subjects for consideration so as to avoid any conflicting of the duties of one committee with those of another. They proposed the appointment of twenty-two committees, as follows:

A committee of seven on the Bill of Rights; of five on the Elective Franchise; of five on the Division of the Powers of Government; of nine on the Legislative Department; of nine on the Executive Department; of nine on the Judiciary Department; of five on State Officers, except the Executive; of seven on County Officers and County Government; of seven on Township Officers and the government of Townships; of five on the Organization and Government of Cities and Villages; of five on Impeachment and Removals from office; of seven on the Militia; of nine on Education; of nine on Finance and Taxation; of nine on banking, and corporations other than municipal; of seven on Salaries; of five on the Seat of Government; of seven on Exemptions, Real and Personal, and the Rights of Married Women; of seven on the Punishment of Crimes; of seven on Miscellaneous Provisions; of five on the Mode of Amending and Revising the Constitution; of seven on the Schedule; of eleven on the Arrangement and Phraseology of the Constitution.

It was proposed that the committee on Education should take under their consideration all that belongs to the University of the State, Common Schools, &c.

The report was laid on the table.

Mr. STOREY, from the committee to inquire into the propriety of securing the services of three Reporters to report the proceedings and debates of this Convention, reported, and recommended the adoption of a resolution appointing C. J. Fox, of

Adrian, J. COATES, of Oakland county, and WILLIAM COATES, of Pontiac, Reporters of the Convention, with a per diem allowance of three dollars each. Also the following resolutions:

Resolved, That there be printed in octavo form, in bourgeois type, for the use of the members of this Convention, one thousand copies of the proceedings and debates, as furnished by the Reporters; such proceedings and debates to be delivered to the members in sheets as fast as printed.

Resolved, That there be printed in book form, upon the same type used in printing the sheets provided for in the foregoing resolution, (without any extra pay for composition,) one thousand copies of the proceedings and debates of this Convention; and that such books be bound in leather, and distributed as follows, to wit: One copy to be transmitted to the Secretary of State of the United States; one copy to the library of Congress; one copy to the Secretaries of State of each of the States and Territories in the Union; one copy to each of the State Institutions in this State; one copy to each of the Judges of a court of record in this State; one copy to each of the members and officers of this Convention; one copy to each of the town clerks in this State, to be deposited in the town Libraries; ten copies to be deposited in the State Library, and one copy in each of the State offices; and the remainder to be deposited in the office of the Secretary of State for transmission to the town clerks of such new towns as may be hereafter organized.

Resolved, That the printing provided for in the foregoing resolutions shall be done under the supervision of the committee on printing.

The report was accepted and the committee discharged.

On the question of concurring in the report,

Mr. DANFORTH moved that the report be printed.

Mr. COOK observed that not only the reporting of the proceedings and debates of the Convention was embraced in the resolutions, but also the mode of printing, and the distribution of the copies. He was not prepared to vote on it at present. He had no objection to action on the first

resolution, relative to the Reporters, if the vote could be taken separately.

The report was laid on the table, and the Convention went into committee of the whole on the report on the rules reported yesterday by Mr. KINGSLEY, Mr. HANSCOM in the chair.

PROCEEDINGS IN COMMITTEE.

The question was taken on the adoption of the rules separately.

Rule 8 provides that no member shall speak more than twice on the same question, without leave of the Convention, nor more than once until every member who chooses to speak shall have spoken.

Mr. BARTOW, of Genesee, proposed an amendment, to add not more than one hour.

Mr. CRARY proposed fifteen minutes as the limitation.

Mr. WALKER opposed the amendment. Some limitation might be of use in legislatures, but the questions which would come before the Convention were of such importance that though he did not suppose any member would be disposed to exceed the time proposed by the gentleman from Genesee, yet he thought there would be an impropriety in cutting off debate.

Mr. BARTOW had proposed the amendment in view of another rule, which provides for unlimited debate in committee of the whole, which would admit enough of discussion. If, as the gentleman from Macomb [Mr. WALKER] had supposed, no member would be likely to exceed the time which the proposed amendment allowed, the amendment could do no harm. He thought the limitation proper, and that there would be an impropriety in any gentleman obtruding himself upon the Convention for a greater length of time.

Mr. VAN VALKENBURG concurred in the views entertained by the gentleman from Macomb, [Mr. WALKER.] He apprehended no gentleman on that floor would abuse his privilege. Some men (said Mr. Van V.) have matured their minds more than others, and we want their information.

Mr. KINGSLEY said the question had been considered in committee. He was not disposed to shorten the time at present. After full discussion of the various subjects which would come under the consideration of the Convention, if such a rule should be found necessary, it might be

adopted. Some gentlemen could express their opinions in less time than others, and every gentleman should have the opportunity of stating his opinions.

Mr. GOODWIN proposed 30 minutes as the limitation.

Mr. CRARY accepted that proposition to his amendment. Mr. C. said this is a business body, a deliberative body. We can come here and occupy hours in talking about first principles, but that is not what the people want; we are here to supply what the people want in the Constitution. If we limit ourselves to that object we need not occupy more than fifteen minutes on any one occasion, in speaking; but if we are here to discuss constitutional law we can speak for hours. I (said Mr. C.) came here for no such purpose, but I wish to aid in embodying the amendments the people want in the Constitution, and then go home.

Mr. BARTOW accepted the amendment to his amendment.

Mr. WALKER renewed the original proposition of one hour. He would have preferred leaving debate unlimited, at least at present. Perhaps all the members had not come so instructed, as the gentleman [Mr. C.] from Calhoun. The people of Macomb had instructed their delegates on some subjects, but not on all subjects that would come under the consideration of the Convention. I believe (said Mr. W.) that our constituents require us to discuss principles and consider some subjects which they have not instructed us upon.

Mr. BUSH said: Mr. Chairman, I do not see the necessity for the amendment offered by the gentleman from Genesee, or for any amendment to the rule reported by the committee. I have had considerable experience in legislation, and I do not recollect ever listening for one hour to one speech from any gentleman in our legislative halls. In the House of Representatives, the rule always stood as reported by the committee of this Convention, till every principle involved in the various subjects of legislation had been fully discussed; till all business before the House had been perfected, and new matter excluded. After that period had arrived, it was customary to limit debate; and till that time arrives in the course of our deliberation on the important subjects we are sent here to

investigate and discuss, I should not think it expedient to limit debate. I do not think any gentleman here is disposed to bore the House with long speeches. If there are any here with such a predisposition, the unhappy propensity will soon be corrected in an assembly like this. We are assembled in Convention to revise the organic law of the land, and it is proper to discuss the principles on which we are called to act; then why limit the time in the outset, for this discussion? I trust, sir, the rule as reported by the committee will be adopted without amendment.

The question was taken, and both the amendments negatived.

The committee rose and reported back to the Convention the rules and amendments, which were concurred in, with the exception of the amendment to the 23d rule.

Mr. WALKER offered a substitute for 23d rule.

Mr. McCLELLAND moved to lay the original and substitute on the table. Carried.

Mr. J. CLARK called up the report of the committee, as to mode of proceeding, &c.

Mr. J. D. PIERCE proposed to amend by combining the committee on township officers and the committee on county officers and county government. The business of those two committees was so much alike that they might with propriety be combined.

Mr. McCLELLAND—The committee on counties is one of much importance. The two committees may combine the result of their deliberations.

The motion did not prevail.

The report was then adopted.

Mr. HANSCOM, from committee appointed to inquire what arrangement can be made in reference to postage and newspapers, reported, that upon conferring with his Excellency, the Governor, they learned that there was, by an act of the last legislature, placed in his hands, as a part of the contingent fund, the sum of five hundred dollars, for the purpose of employing or retaining a private secretary until after the close of this Convention. That he had dispensed with the services of a private secretary, and consequently the sum of \$500, designed for payment for the servi-

ces of such officer, was now in the contingent fund, and that he would use such sum for the payment of such postage as might be directed by the Convention.

The committee would further beg leave to state, that under the construction given to the law under which the Convention is organized, by the Auditor General, that officer would not feel himself authorized to draw a warrant upon the Treasurer upon the certificate of the Secretary and President of the Convention, for postage or other contingent expenses, other than those specially contemplated by the terms of the act.

Upon the subject of newspapers, the committee have been informed by the proprietors of the Detroit Free Press, and the Advertiser, that they will furnish such papers as the Convention may direct, under the recommendation of the Convention to the next Legislature to make an appropriation to pay for the same.

It is perhaps proper, in conclusion, to state that at the time of the appropriation to the contingent fund above referred to, the Governor had in his employ as private secretary, Mr. HORACE S. ROBERTS, a gentleman eminently qualified for the performance of the duties, and whose services were only dispensed with from considerations of economy; the Governor preferring to perform his own appropriate duties, and also those devolving upon that officer, rather than impose additional burthens upon the treasury. All which is respectfully submitted.

The report was accepted, the committee discharged and the report laid on the table.

On motion of Mr. STOREY, the first resolution relative to reporters of the Convention was taken from the table and the same was adopted.

Mr. HANSCOM offered the following resolution, and the same was agreed to:

Resolved, That there be added to the standing committees of the Convention, one on supplies and expenditures, to consist of five members.

On motion of Mr. HANSCOM, the subject of postage and newspapers was referred to the committee on supplies and expenditures.

On motion of Mr. ROBERTS, the Convention then adjourned.

THURSDAY, (4th day,) June 6.

The Convention was called to order at 9 o'clock.

Prayer by the Rev. Mr. SAPP.

On motion of Mr. LEACH, the reading of the journal was dispensed with.

Mr. BRITAIN rose to inquire if the rule requiring the proceedings in committee of the whole to be entered on the journal had been adopted.

The PRESIDENT remarked that the rule had not yet been adopted.

REPORTS.

Mr. HANSCOM presented the following:

The committee on supplies and expenditures recommend to the Convention the adoption of the following resolutions:

Resolved, That the committee on supplies and expenditures be and they are hereby authorized and required to procure for the use of the Convention an amount of such stationery as will be required, not exceeding in value three hundred dollars, and that the same be delivered to the respective members and officers, under the direction and supervision of the Secretary of the Convention; and an account kept of the amount delivered to each member and officer of the Convention; and that if, after the adjournment of the Convention, any portion of the same should be unappropriated, the same shall be delivered by the Secretary of the Convention to the Secretary of State for the use of the State.

Resolved, That the Secretary of the Convention be required to order for the members of this Convention such newspapers as they may direct, not exceeding two dailies for each, during the setting of the Convention, and that this Convention recommend that the next Legislature make an appropriation to pay therefor.

Resolved, That all postage on mailable matter (not exceeding the sum of five hundred dollars) received or sent, except letters sent by members of the Convention, be, by the Post Master of this village, charged to the Convention; and that his Excellency, the Governor, be and is hereby requested to pay such sum to said Post Master, upon the certificate of the Secretary of the Convention, countersigned by the President, as may be due for postage, not exceeding said sum of \$500; and that

the Post Master be required to keep an account with each member of the Convention.

The report was accepted, the committee discharged and the resolutions laid on the table.

Mr. VAN VALKENBURG, from the committee appointed to invite resident clergymen to officiate at the opening of the daily session of the Convention, reported that they had performed that duty; and the committee was discharged.

RESOLUTIONS.

Mr. GARDINER offered the following:

Resolved, That a standing committee of five be appointed to superintend the printing to be done for this Convention, to be called the committee on printing.

Mr. COOK inquired what printing it is intended to superintend.

Mr. HASCALL—Reports of committees and such printing as the Convention may order.

The resolution was adopted, and the President appointed Messrs. GARDINER, HASCALL, CHURCH, ROBERTS and BUSH such committee.

Mr. STOREY offered the following:

Resolved, That the State Printer be instructed to print an edition of 250 copies of the daily official journal of this Convention, in book form, for binding; and that he be instructed to print a like number of all reports of committees for binding.

Resolved, That the contractor for doing the binding for the State, be instructed to bind in the same manner the journals of the Legislature are now bound, the journals and such documents as may be printed by order of this Convention, in one volume—the reports to be inserted as an appendix to the journals.

Mr. VAN VALKENBURG asked what disposition was to be made of these books.

Mr. STOREY remarked that it was intended to distribute them in the same manner as journals of Legislature. The copies remaining after members of the Convention had been supplied could be deposited in the office of the Secretary of State.

Mr. BRITAIN thought it was a standing rule of the Convention, that every member, previous to speaking, should address himself to the President; he had risen several times, but had been unable to

get the attention of the President, as members had taken the floor and gone on to speak without addressing the President. He moved that the resolutions be referred to the committee on printing.

The motion of Mr. BRITAIN was carried.

Mr. ARZENO offered the following resolution:

Resolved, That a certificate of five dollars be drawn and presented to each member of this Convention, to be used by such member in the purchase of stationery.

Mr. CRARY said the object embraced in this resolution would come up under the report of the committee on supplies and expenditures. He moved to lay the resolution on the table.

The resolution was laid on the table.

Mr. ROBERTS offered the following resolution:

Resolved, That a committee on governmental and judicial policy of the Upper Peninsular, be added to the standing committees, to consist of nine members. Adopted.

Mr. N. PIERCE moved that the vote by which the 34th rule was stricken from the report of the committee on rules to govern this Convention, be reconsidered.

The PRESIDENT suggested that the subject would come up to-day, when the report of the committee on rules was taken from the table.

Mr. CORNELL moved to lay the resolution on the table. Carried.

Mr. BUSH moved to take from the table the report of the committee on supplies and expenditures. He considered it very important that the resolutions should be adopted. Members of the Convention were without stationery, and it was necessary they should be supplied. The report was taken up.

Mr. HANSCOM asked that the resolutions be acted upon separately.

The first resolution being under consideration,

Mr. VAN VALKENBURG presented the following (resolution offered by Mr. ARZENO and laid on the table,) as a substitute:

Resolved, That a certificate for five dollars be drawn and presented to each member of this Convention, to be used by such member in the purchase of stationery.

Mr. HANSCOM hoped the resolution

of the committee would be adopted. The system proposed in the resolution just offered would operate unequally and unjustly. The relative position of the members made it necessary that some should have five, some ten and others twenty dollars worth of stationery, while many could pocket the five dollars proposed to be given by the resolution. He knew not that there were such in this body, but there had been in the Legislature. He knew how the system worked in the Legislature last winter; some members of committees were compelled to pay from ten to twelve dollars out of their own pockets, when others saved money. The resolution of the committee was equal and just—it was more economical. It proposed only three hundred dollars, and this five hundred. He thought the resolution recommended by the committee embraced the better system, and hoped it would be adopted.

Mr. VAN VALKENBURG preferred that each member should have control over his own stationery. He considered the plan proposed by this resolution much more economical and just, than that by the committee. Let their plan be adopted, and members would soon hear the stationery had all been exhausted.

Mr. MORRISON moved to amend by striking out the word "five," and inserting "three."

A division of the question being called, the question was first taken on striking out, and the same prevailed. The blank was then filled with "three."

Mr. CROUSE would barely observe, from experience, he would much prefer the resolution offered in the report of the committee. He did not like the plan of running to this shop and that, for the purpose of buying a small quantity of stationery. It was paying too dear for the whistle. The committee could purchase more with three hundred dollars, than could be bought with five hundred, as proposed by the substitute.

On motion of Mr. MORRISON, the substitute was so amended as to appropriate two dollars, in addition, to the chairman of each standing committee, for the use of the committee.

Mr. J. D. PIERCE hoped the resolution would not prevail. He would call attention to a resolution already adopted, by

which members were to be furnished with stationery to an amount not exceeding five dollars each. [The reading of the resolution adopted being asked, it was read by the Secretary.] He thought the resolution would also conflict with the report of the committee. The substitute ought not to prevail unless the resolution already adopted be repealed.

Mr. S. CLARK was opposed to the substitute and in favor of the resolution reported by the committee. The amount suggested by the committee was much more economical, and by the plan proposed, the necessary supplies would be distributed as the various wants of members required.

Mr. REDFIELD concurred with the report of the committee. It was of little matter in what manner the supplies were distributed. Let every member receive what was actually necessary.

The reading of the resolution reported by the committee being asked, it was read by the President.

Mr. WITHERELL was more in favor of the resolution than the substitute. If this body could appropriate three dollars, it could three hundred. The design was to give members supplies, not money. He preferred the original resolution, as by it each member might obtain what he wanted. He did not like the plan of appropriating money.

Mr. HANSCOM considered the substitute void, if adopted—no warrant would issue. The resolution of the committee followed the law and was a saving to the state. He was opposed to members huckstering about the streets like schoolboys trading in marbles.

Mr. WALKER asked if there were any restrictions in the resolution of the committee, to prevent ten or fifteen members from drawing the whole amount of stationery. He believed there were none.

Mr. HANSCOM would answer the gentlemen from Macomb. There was nothing to prevent stealing. The committee regarded the members of the Convention as honorable men, and considered the open account proposed to be kept with the Secretary a sufficient restriction. If any gentleman was disposed to rob that officer, there was nothing in the resolution to prevent him.

Mr. WALKER thought the Secretary

should have some check on members. Experience said it was proper.

Mr. BAGG did not believe the constitution would suffer by the manner in which stationery was distributed. He would not dictate to any member whether he should buy gilt-edged paper or fools-cap; common goose-quills or gold pens,—let every gentleman get just what he wanted. He preferred the money to purchase what he considered necessary, and was therefore opposed to the original resolution, and in favor of the substitute.

The substitute as amended was again read.

Mr. BRITAIN was of the opinion that the state would be put to too much expense if the resolution prevailed. The convention had already adopted a resolution requiring the "committee on supplies to furnish for the use of this Convention such stationery as is allowed by law, not exceeding five dollars to each member, and to each officer so much as he shall require;" and if this resolution be adopted, the amount appropriated by it would be in addition to the amount already appropriated.

He was opposed to the resolution for another reason. It proposed to appropriate money, not stationery; and this Convention had no constitutional right to appropriate money to its members, to be by them either paid out for stationery, or placed in their pockets to be used for other purposes, at their option.

The system of drawing money, instead of supplies, was urged by many members of the last legislature and adopted. He was familiar with the workings of the plan then, and did not like it. It would be much better for each member to furnish himself with stationery, and present an account therefor before drawing the money, or a certificate therefor.

Mr. N. PIERCE disagreed with the gentleman. He did not see what they had to do with the constitution—they were not subject to it. The members of the legislature last winter were subject to constitutional rule, and took the constitutional oath. Members of the Convention were under no such rule—they were not sworn to anything. The legislature could draw for what they wanted in money, or in any way they choose.

He thought the gentleman had erred in

his reasoning. It appeared to him the Convention, if it thought proper, had a right to appropriate a sum of money to buy stationery. He saw nothing to hinder it.

Mr. BRITAIN supposed the Convention was subject to the Constitution. The only law under which it was called, was passed in accordance with constitutional provisions. The only law under which the Convention can furnish its members with stationery, was that under which the Convention was called, which provided that "the said Convention may furnish for its own use, such stationery as it may require, as is usual for Legislative bodies; and the amount due therefor shall be certified to, and paid for in the same manner as the delegates and officers are paid."

Under this law the Convention can only appropriate the money after it shall have become due for stationery, previously purchased; and under the constitution, which the Treasurer has sworn to support, no money could be drawn from the treasury but in consequence of appropriations made by law. It must therefore, he thought, be evident that the Convention is subject to the constitution in this respect, and that it has no right to appropriate money to its own members, to be used by them as they may think proper.

The question was taken on the substitute as amended, and lost.

Mr. BUTTERFIELD offered the following as a substitute for the first resolution:

Resolved, That the Secretary of the Convention be instructed to purchase five hundred dollars worth of stationery for the use of the Convention, and that the Secretary distribute to the members not exceeding three dollars worth each, and such stationery as their official duties may require to the chairmen of standing committees.

Mr. MORRISON moved to strike out "three" and insert "two," in the substitute. Lost.

The question being taken on the adoption of the substitute, as offered by Mr. BUTTERFIELD, it was not carried.

The question then recurring on the adoption of the first resolution reported by the committee,

On motion of Mr. MASON, all after the word "resolved" was stricken out.

On motion of Mr. WHIPPLE, the re-

mainder of the resolution was laid on the table.

The second resolution being under consideration,

Mr. HASCALL moved to strike out the word "two," and insert "one."

A division of the question was called for, and the Convention refused to strike out.

Mr. Leach moved to strike out all after the word "resolved;" which motion was lost; and the second resolution was adopted.

The third resolution being under consideration,

On motion of Mr. HANSCOM, the last clause of the resolution, relative to the Post Master keeping an account with delegates, &c., was stricken out.

Mr. MASON moved to lay the resolution on the table. *Lost.*

Mr. BRITAIN offered the following as a substitute:

Resolved, That the Post Master at Lansing be and he is hereby authorized to charge to the State the postage on all mail matter received by members and officers of said Convention, and all journals and documents of said Convention sent from this post office by said members and officers; provided said amount do not exceed five hundred dollars.

His object was to confine the payment to that description of mail matter necessary to the people. The substitute also proposed to pay the postage on documents—not on newspapers. He did not wish to incur expense by sending useless matter throughout the State. The postage bill of the last Legislature amounted to eighteen hundred and forty dollars.

Mr. CORNELL would like to hear the resolution reported by the committee, and the substitute read. [They were read.] He saw no difference in them.

Mr. BRITAIN—Under the resolution, the postage on all newspapers sent off by members would have to be paid. The substitute proposes to pay only for journals and documents sent from this office. Members could not send newspapers.

Mr. CORNELL—Suppose a member should envelope a newspaper with a journal, how would the Post Master find it out and get his pay?

Mr. BRITAIN—It is the duty of the Post Master to detect that fraud.

Mr. CORNELL knew there were some cunning fellows in the Convention, and it would be hard for the Post Master to find out their tricks.

The question being taken on the substitute, it was lost, and the resolution adopted.

RULES.

On motion of Mr. COOK, the report of the committee on rules was taken from the table.

The PRESIDENT stated the question to be on the adoption of the substitute of Mr. WALKER to the 23d rule.

Mr. COOK suggested to the gentleman [Mr. WALKER] to strike out the words "without a vote of two-thirds." That number could suspend the rules and reconsider at any time.

The substitute was modified as proposed, and the words stricken out by general consent.

Mr. BRITAIN moved to amend the substitute by striking out the two first lines, as printed, and inserting:

"A motion for reconsideration shall be in order at any time, and may be made by any member of the Convention; but if the motion to reconsider shall not be made on the same day or the day after that on which the decision proposed to be reconsidered was made, three days' notice of the intention to make the motion shall be given."

Mr. J. D. PIERCE much preferred the 19th rule of the last Convention, and requested the Secretary to read it. [It was read.]

The motion to amend was not carried; and the question being taken on the substitute it was lost—yeas 33, nays 53.

Mr. MORRISON offered the following as a substitute:

"When a motion has been once put, and carried in the affirmative or negative, it shall be in order for any member who voted in the majority to move for a reconsideration thereof, on the same or the succeeding day. And it shall be in order for any member thereafter to make such motion, by giving at least two days' notice of his intention to do so. But a motion for reconsideration being put and lost, shall not be a second time renewed without a

vote of a majority of the members elect." Lost.

Mr. J. D. PIERCE offered the following as a substitute:

"No motion for reconsideration shall be in order unless on the same day or day following that on which the decision proposed to be reconsidered took place, nor unless one of the majority shall move such reconsideration. A motion for reconsideration being put and lost, shall not be resumed, nor shall any subject be a second time reconsidered without the consent of the Convention." Lost.

The Convention then concurred in the report of the committee of the whole regarding the 23d rule.

The question being upon the adoption of the rules as concurred in,

Mr. J. BARTOW moved to amend the 8th rule by adding after the word "question," the words "nor more than one hour at any one time."

Mr. B. regarded the rule as a good one. The President might not be called on to enforce it, yet it would give notice to members, and lead to a condensation of remarks. He hoped it would be adopted.

Mr. MORRISON moved to amend the amendment by striking out "one hour," and inserting "fifteen minutes."

Mr. WILLIAMS hoped the motion of the gentleman from Genesee [Mr. BARTOW] would prevail. He did not propose to consume much time of the Convention either in long or short speeches, but if he did desire to say anything, he wished to express his ideas fully or not at all. Though it may be proper to put a legislative body in a strait jacket, he did not deem it necessary to impose stringent rules upon a body like this, whose duty it is to revise the fundamental laws, and whose business is the discussion of principles.

Though some men may condense all their ideas into a speech of fifteen minutes, yet there are others in the Convention who may be able to enlighten it for an hour. We here represent society resolved into its original elements, thrown back into a state of chaos; and he did not think the limitations which the abuses of legislative bodies had rendered necessary, exactly applicable to us. He would allow all members as wide a latitude in discussion as is reasona-

ble and safe. The limitation proposed of fifteen minutes, is too rigid—thirty minutes might be long enough, but still he hoped the amendment to the rule proposed by the gentleman from Genesee, limiting each speaker to an hour, would be adopted.

The amendment to the amendment was not carried.

Mr. DESNOYERS moved to strike out "one hour," and insert "thirty minutes;" and a division of the question being called for, the Convention refused to strike out. The amendment offered by Mr. BARTOW was then adopted.

Mr. J. D. PIERCE moved to amend the 35th rule by striking out "ten" and inserting "twenty." His object in proposing the amendment was this: By the rule as it now stood, ten members could check the proceedings of the Convention, and he was unwilling to place this power in the hands of ten persons. If reference were made to the journals of our own legislature, it would be seen how often the power had been abused.

Mr. BRITAIN had no objection to the amendment. He supposed the gentleman [Mr. P.] had reference to himself, when alluding to the calling of the ayes and noes on this floor. He had called for them twice, but he considered the subjects embraced in the resolutions, when the votes were taken, of importance. The committee, before reporting, had considered the matter maturely, and thought one-tenth ought to have the power.

Mr. WITHERELL hoped the amendment would prevail. He was in that House last March, and saw the impropriety of giving the power to a small number. The majority, for hours, were prevented from proceeding in business. First, there was a motion to lay on the table; then the ayes and noes were called—next a motion to adjourn, and the ayes and noes again called, and so on, until the minority thought proper to yield. At least one-fifth of the members should be necessary to make the call.

Mr. KINGSLEY would remark that the proceeding to which the gentleman [Mr. W.] had alluded, arose under the very rule the amendment proposed, and which he wished adopted.

The vote was taken on the amendment and lost.

On motion of Mr. ROBERTS, the 28th rule was amended by inserting after the words "ministers of the gospel," the words "ladies, farmers, mechanics, laborers and other citizens and strangers."

Mr. HANSCOM moved to strike out the rule, (28th.) Carried.

Mr. N. PIERCE moved to reconsider the vote by which the Convention concurred in the report of the committee of the whole, striking out the 34th rule.

Mr. P. had no preference for the manual mentioned in the rule. He only wished the Convention to adopt some guide. If any gentleman would suggest one more suitable, he would go for it.

Mr. WHIPPLE did not see the importance of engrafting this rule among those by which the Convention would be governed, for the obvious reason that many of the rules, as laid down in Jefferson's Manual, had been altered. The President was doubtless familiar with the general principles of the parliamentary law, and in the proceedings of the Convention he would enforce them.

Mr. CRARY was not aware that the parliamentary law of Mr. Jefferson had fallen into such disrepute. Some few rules, as laid down by Mr. Jefferson, had been altered, but in Congress they were regarded as high authority. He was in favor of his colleague's amendment, making Jefferson's Manual our guide.

Mr. McLEOD was one of those who had great respect for an old rule, well understood, although it might be a bad one. The rules of parliamentary practice, as comprised in Mr. Jefferson's Manual, had been a custom, to the contrary of which the memory of man runneth not. The House, in the Legislature in this State in '33 or '34, thought proper to adopt it as a guide, and it had continued such up to this time. It was much better to adopt some particular practice, as different members might have in their pockets the manual of Mr. Jefferson, of Mr. Sutherland, and of Tom, Dick and Harry. Many principles had been settled by Mr. Jefferson, and if any doubt should arise as to the practice in some particular cases, they could get the advice of his friend from Monroe, [Mr. McCLELLAND,] who was fa-

miliar with parliamentary practice and would decide for them.

The question arising on concurring in the amendment, the Convention refused to concur.

Mr. BUSH offered the following as a substitute for the 2d rule:

"Upon the appearance of a quorum, the journal of the preceding day shall be corrected, and, when demanded by a majority, shall be read by the Secretary."

Mr. B. knew the custom of reading the journal of proceedings on the day following had existed for a long time, and continued to exist. It originated from the necessity of the case; but on occasions like this, each member would read and examine for himself, and thus save much time.

Mr. WITHERELL thought a less number than a majority might request the reading of the journal, but he would make no motion.

Mr. VAN VALKENBURG moved to amend the substitute by striking out "majority," and inserting the word "member."

Which motion did not prevail, and the substitute was adopted.

The rules as amended were then adopted in gross.

Mr. HASCALL inquired if the clergymen, who had been invited to open the daily sessions with prayer, were officers of the Convention, and what arrangement had been made with them. He thought one chaplain sufficient. He did not wish the next Legislature to be troubled with any bills for services; and for the purpose of testing the question, moved a reconsideration of the resolution, appointing a committee to invite the clergymen of Lansing to open the morning sessions of the Convention with prayer, passed yesterday.

On motion of Mr. COOK,
The Convention adjourned.

RULES OF THE CONVENTION.

RULE 1. The President shall take the chair at the time to which the Convention stands adjourned, and the Convention shall then be called to order and the roll of the members called.

RULE 2. Upon the appearance of a quorum, the journal of the preceding day shall be corrected, and when demanded by a majority, shall be read by the Secretary.

RULE 3. The President shall preserve order and decorum, and shall decide questions of order, subject to an appeal to the Convention.

RULE 4. The President shall vote on all questions taken by yeas and nays, (except on appeals from his own decisions.)

RULE 5. When the Convention adjourns, the members shall keep their seats until the President announces the adjournment.

RULE 6. Every member, previous to his speaking, shall rise from his seat, and address himself to the President.

RULE 7. When two or more members rise at once, the President shall designate the member who is first to speak.

RULE 8. No member shall speak more than twice on the same question, nor more than one hour at any one time without leave of the Convention, nor more than once until every member who chooses to speak, shall have spoken.

RULE 9. Every motion shall be reduced to writing, if required by the President or any member, and shall be stated by the President before debate.

RULE 10. After a motion shall be stated by the President, it shall be deemed to be in possession of the Convention; but may be withdrawn at any time before decision or amendment; but another member may renew the same.

RULE 11. When a question is under debate, no motion shall be received but to adjourn; for the previous question; to lay on the table; to postpone indefinitely; to postpone to a day certain; to commit or to amend; which several motions shall have precedence in the order in which they stand arranged.

RULE 12. A motion to adjourn shall always be in order; that and the motion to lay on the table shall be decided without debate.

RULE 13. The previous question shall be in this form: "Shall the main question be now put?" And if demanded by a majority of the members present, its effect shall be to put an end to all debate, and bring the Convention to a direct vote upon amendments, if any are pending, and then upon the main question.

RULE 14. All incidental questions of order, arising after a motion is made for the

previous question, during the pendency of such motion, or after the Convention shall have determined that the main question shall be now put, shall be decided, whether on appeal or otherwise, without debate.

RULE 15. Petitions, memorials and other papers, addressed to the Convention, shall be presented by the President, or a member in his place.

RULE 16. Every member who shall be present when a question is last stated from the Chair, and no other, shall vote for or against the same, unless the Convention shall excuse him, in which case he shall not vote.

RULE 17. When the President is putting the question, no member shall walk out or across the House; nor when a member is speaking shall any person entertain any private discourse, or pass between him and the Chair.

RULE 18. If the question in debate contains several points, any member may have the same divided.

RULE 19. A member called to order shall immediately set down, unless permitted to explain, and the Convention, if appealed to, shall decide the case; if there be no appeal, the decision of the Chair shall be submitted to; on an appeal, no member shall speak more than once, without leave of the Convention; and when a member is called to order for offensive language, there shall be no debate.

RULE 20. In forming a committee of the whole, the President shall appoint a chairman to preside.

RULE 21. Propositions committed to a committee of the whole shall first be read through by the Secretary, and then read and debated by clauses. All amendments shall be entered on a separate piece of paper, and so reported to the Convention by the chairman, standing in his place.

RULE 22. All questions, whether in committee or in the Convention, shall be put in the order they were moved, except in the case of privileged questions; and in filling up blanks, the largest sum and the longest time shall be first put.

RULE 23. No motion for reconsideration shall be in order, unless within three days after the decision proposed to be reconsidered took place. A motion for reconsider-

ation being put and lost, (except in case of privileged motions,) shall not be renewed on the same day.

RULE 24. Any member, having voted with the majority, may be at liberty to move for a reconsideration; and a motion for reconsideration shall be decided by a majority of votes.

RULE 25. The rules of the Convention shall be observed in committee of the whole, so far as they may be applicable, except that the yeas and nays shall not be called, the previous question enforced, nor the time of speaking limited.

RULE 26. A motion that the committee rise shall always be in order, and shall be decided without debate.

RULE 27. In all cases where an order, resolution or motion, shall be entered on the journals of the Convention, the name of the member moving the same shall be entered on the journals.

RULE 28. On the meeting of the Convention, after correcting the journal of the preceding day, the order of business shall be as follows: 1st, presentation of petitions; 2d, reports of standing committees—reports of select committees; 3d, motions, resolutions and notices; 4th, reading resolutions; 5th, unfinished business of the preceding day; 6th, special orders of the day; 7th, general orders of the day.

RULE 29. When the Convention have arrived at the general orders of the day, they shall go into committee of the whole upon such orders, or a particular order designated by a vote of the Convention; and no other business shall be in order until the whole are considered or passed, or the committee rise; and unless a particular subject is ordered up, the committee of the whole shall consider, act upon, or pass the general orders, according to the order of their reference.

RULE 30. No rule of the Convention shall be suspended, altered or amended, without the concurrence of two-thirds of the members present.

RULE 31. Upon the call of the Convention, the names of the members shall be called by the Secretary, and the absentees noted; but no excuse shall be made until the Convention shall be fully called over; then the absentees shall be called over the second time, and if still absent, excuses

are to be heard; and if no excuse, or insufficient excuse be made, the absentees may, by order of those present, if there are fifteen members present, be taken into custody, wherever to be found, by the Sergeant-at-Arms.

RULE 32. The President may leave the chair and appoint a member to preside, but not for a longer time than one day, except by leave of the Convention.

RULE 33. The rules of parliamentary practice comprised in Jefferson's Manual, shall govern the Convention in all cases to which they are applicable, and in which they are not inconsistent with the standing rules and orders of the Convention.

RULE 34. The yeas and noes may be called for by ten members.

RULE 35. A majority of the members elected shall constitute a quorum for the transaction of business; but a less number may adjourn.

RULE 36. A journal of the proceedings in committee of the whole shall be kept.

FRIDAY, (5th day,) June 7.

Prayer by the Rev. Mr. ATTERBURY.

Roll called and journal corrected.

The CHAIR announced the following

STANDING COMMITTEES:

1. *On the Bill of Rights*—Messrs. S. Clark, Rix Robinson, Gardiner, Gibson, Webster, P. R. Adams, Prevost.

2. *On the Elective Franchise*—Messrs. Whittemore, Alvord, Hascall, Lovel, Wait.

3. *On the Division of the Powers of Government*—Messrs. J. Clark, Newberry, Hart, Barnard, Asahel Brown.

4. *On the Legislative Department*—Messrs. McClelland, Bagg, Crouse, E. S. Robinson, Soule, Alvarado Brown, Beeson, Gale, Chandler.

5. *On the Executive Department*—Messrs. Whipple, Skinner, Mowry, Eaton, Anderson, Sutherland, M. Robinson, N. Pierce, Daniels.

6. *On the Judicial Department*—Messrs. Crary, S. Clark, Church, Hanscom, Sullivan, Walker, Kingsley, Tiffany, Backus.

7. *On State Officers, except the Executive*—Messrs. Redfield, Roberts, Mosher, Orr, Carr.

8. *On County Officers and County Government*—Messrs. Rix Robinson, Cornell,

Ammon Brown, Conner, Hixon, Green, Wait.

9. *On Township Officers and Township Government*—Messrs. Bush, Eaton, Chapel, Town, Beeson, Harvey, Leach.

10. *On the Organization of the Government of Cities and Villages*—Messrs. J. Bartow, Skinner, Marvin, Witherell, Raynale.

11. *On Impeachments and Removals from office*—Messrs. Sullivan, J. Clark, W. Adams, Beardsley, P. R. Adams.

12. *On the Militia*—Messrs. Hanscom, Arzeno, Dimond, O'Brien, White, Anderson, Daniels.

13. *On Education*—Messrs. Walker, Van Valkenburg, Butterfield, Eastman, Desnoyer, J. D. Pierce, Barnard, Williams, Edmunds.

14. *On Finance and Taxation*—Messrs. Britain, Bush, Fralick, Axford, Morrison, Burns, Choate, Wells, Chandler.

15. *On Banking and other Corporations, except Municipal*—Messrs. Cook, Raynale, Hascall, Danforth, Gardiner, Crouse, Moore, White, Comstock.

16. *On Salaries*—Messrs. Storey, Van Valkenburg, Mason, Desnoyers, Eastman, Morrison, Williams.

17. *On the Seat of Government*—Messrs. Kingsley, Axford, Danforth, Storey, Willard.

18. *On Exemptions and the Rights of Married Women*—Messrs. J. D. Pierce, Newberry, Lee, Chapel, Fralick, H. Bartow, Tiffany.

19. *On the Punishment of Crimes*—Messrs. Witherell, Sturges, M. Robinson, Woodman, Warden, Kinne, Prevost.

20. *On Miscellaneous Provisions*—Messrs. Church, Whittemore, Sutherland, Alvarado Brown, Marvin, Dimond, Carr.

21. *On the Mode of Amending and Revising the Constitution*—Messrs. McLeod, Mosher, Webster, Gibson, Harvey.

22. *On the Schedule*—Messrs. Mason, Hart, Robertson, Moore, Alvord, Wells, Backus.

23. *On Arrangement and Phraseology of the Constitution*—Messrs. Crary, McClelland, Whipple, S. Clark, Gardiner, Walker, Redfield, Britain, Wells, Tiffany, Williams.

24. *On the Government and Judicial Policy of the Upper Peninsula*—Messrs.

Roberts, McLeod, Cornell, Willard, Hanscom, Edmunds, Gale.

Mr. KINGSLEY offered the following resolution:

Resolved, That the committee on printing procure in convenient form, for the use of each member of this Convention, a copy of the present constitution of the State.

Mr. K. said, before the question was taken, he would state the object he had in view. Members of the Convention had not the old constitution before them. True; it is ordered to be printed in the manual, but it will be some time before the manual will be arranged and printed; and even in that form, it will be inconvenient for the use of the members. He proposed that it should be printed on foolscap paper, (one side printed, the other blank,) as the most convenient form for the use of members.

Mr. N. PIERCE would suggest to the mover of the resolution, the propriety of having the constitution printed in bill form, as most likely to secure the object the gentleman proposed.

Mr. KINGSLEY believed the form he had proposed would be found the most convenient. Adopted.

Mr. N. PIERCE offered the following:

Resolved, That the committee on supplies and expenditures be instructed to employ some suitable person to repair the locks that are upon the tables of the members of this Convention, or so many of them as are not in repair.

Mr. COOK believed arrangements had been made by the Secretary of State for those repairs, which would be made as soon as locks could be procured.

Mr. McLEOD—The resolution could do no injury. It would have been better, and it would have shown more attention on the part of the State officers, if they had attended to this matter before the Convention met.

The resolution was adopted.

Mr. McCLELLAND offered the following:

Resolved, That the present constitution be referred to the appropriate committees, and that said committees be requested, when they report, to embody their suggestions for a constitution in articles and sections; that they copy into such articles sections of the present constitution appli-

cable thereto, to which they propose no amendments or alterations, and in such sections as they propose to amend and alter, they shall incorporate such amendments and alterations.

Mr. McC. said the object he had in view was, so far as practicable, to produce uniformity in the mode of reporting the amendments.

If the alterations proposed are arranged and drawn up in connection with the parts proposed to be amended, every member can compare and decide more promptly on the amendment, than if he had to refer to another document.

Mr. REDFIELD—The object is merely to preserve the present excellent form of our constitution, so that when the committees report, the several parts may be placed together in harmony. The resolution was adopted.

Mr. WITHERELL rose and stated that he did not shun any labor in connection with the Convention. He declined to serve in the place proposed by the President on the committee on the punishment of crime.

Mr. N. PIERCE offered the following:

Resolved, That this Convention will on Monday next proceed to revise and amend the constitution of this State; that this Convention will resolve itself into the committee of the whole Convention, and take the present constitution up by articles and by sections, and in such other sub-divisions as will best suit the convenience of the committee, and proceed from day to day to revise and amend said constitution, in committee and in Convention, until the labors of this Convention shall be finished.

Mr. WHIPPLE—The resolution proposed by the gentleman from Calhoun [Mr. N. PIERCE] would be in conflict with the resolution just adopted, and would embarrass exceedingly the business of the Convention. After the committees which have been appointed, under the resolution introduced by the gentleman from Monroe, shall have reported, then the Convention may with propriety go into committee of the whole on the constitution, under some such resolution as the gentleman proposes. To go at present into committee of the whole, would bring the Convention into direct conflict with the committees.

Mr. N. PIERCE thought it was obvious to every member of the Convention, that

one of the main difficulties in doing business in Legislative bodies was in getting ready to do business. It is generally thirty days after the Legislature meets that the business of the session fairly commences. One week had been spent in organizing the Convention. The committees were now appointed, but it might be four weeks before they reported, during which time the members of the Convention not engaged on those committees would have nothing to do but walk the streets of Lansing. It appeared to him that the most proper mode of proceeding would be to take up the old constitution, and every man propose the amendment he wished to make. He thought the business would sooner be completed by the adoption of this mode, than by referring the several subjects embraced in the constitution to the committees. It would be found more difficult to connect the different parts reported by the committees, than by taking up the whole at once.

The object for which the Convention had assembled was to amend. The old constitution was a good one. If any alterations were required in the constitution, they were such as would tend to effect a reduction in the expenses of the government and the mode and manner of footing up the bills. It was desirable to accomplish this work in the least possible time; and as he believed the plan of proceeding he proposed would effect a saving of time, he had been induced to offer the resolution to the consideration of the Convention. It had been a long established custom in Legislative bodies and in conventions, to refer to committees and get their reports; but we live in a day of improvement—great improvement—and old established usages are not held in so much reverence as formerly. It appeared to him that there might be no impropriety in deviating from the ancient practice, by taking up at once the whole constitution itself. If difficulties should arise on any particular subject, it might be referred to a committee for more special consideration. Perhaps he was wrong in his calculation, but it appeared to him that in thirty days all the amendments required in the constitution might be made, and the revision completed.

Mr. WITHERELL—The object of the gentleman is accomplished already. The

constitution is referred to the several committees under the different heads. The only difficulty seems to be that the gentleman wants something to do—something to talk about. It is probable that some of the committees will report back the subjects referred to them, without proposing any change, and that they will report immediately. The time of the Convention may then be occupied until the committees engaged on those subjects in which important alterations are contemplated, may be able to report.

Mr. BACKUS had come into the Convention with the disposition to accomplish the work for which they were assembled as speedily as possible. The main object for which the delegates were assembled, was to revise the constitution, and incorporate such amendments as were required by the people. A large proportion of that instrument was such as the people were perfectly satisfied with, and would require no alteration. In his view, some such mode as the gentleman proposed would have been appropriate, and might have been made applicable; but as the various subjects had been distributed among the several committees for their consideration, upon which they would be required to report, the adoption of the resolution proposed by the gentleman from Calhoun would impede materially the business as arranged. The object of the gentleman might be accomplished by the introduction of resolutions instructing those committees to embody specific amendments in their reports. Gentlemen could indicate all the various modes of amendment they thought proper, and in that way call the attention of the committees to them. Had the whole constitution been referred to the committee of the whole in the first instance, it might have been proper; but he [Mr. B.] should hesitate to adopt the proposition now, after the Convention had appointed 23 committees to act and report on the matter.

The resolution was not adopted.

On motion of Mr. STOREY, the resolution relative to the printing of the reports of the proceedings of the Convention was taken from the table and referred to the committee on printing.

Mr. MOORE offered the following resolution:

Resolved, That the committee to whom

was referred the duty of inviting the resident clergy to officiate at the opening of the daily sessions, be instructed to report what arrangement has been made, if any, for the payment of their services.

Mr. M. said he offered the resolution, not with the intention of exciting any feeling amongst the members, but that some arrangement might be made, either among the members themselves or by some other mode, for the payment of the clergymen who had been invited to open the morning sessions of the Convention with prayer. Arrangements made now might prevent trouble hereafter.

Mr. McLEOD—We have no such committee in existence.

Mr. RAYNALE—The committee has been discharged, having reported that they had accomplished the object for which they had been appointed.

Mr. RAYNALE offered the following as a substitute:

Resolved, That the Sergeant-at-Arms be directed to invite the resident clergy of this village to attend alternately and open the sessions with prayer; and that no other compensation be allowed for the services of clergymen than the members of the Convention may deem proper to pay from their own private funds.

Mr. MOORE withdrew his resolution, and Mr. RAYNALE offered his substitute as an original resolution.

Mr. EATON moved to strike out that part which directs the Sergeant-at-Arms to give the invitation.

Mr. DANFORTH moved to lay on the table, which was negatived.

Mr. ROBERTS submitted the following substitute:

Resolved, That the services of the resident clergymen be dispensed with, and that the Rev. J. D. PIERCE and Rev. Mr. WEBSTER, members of this body, be requested to officiate alternately.

Mr. WITHERELL moved to indefinitely postpone.

Mr. RAYNALE hoped the motion would not prevail. He believed the Convention was laboring under some misunderstanding on the subject. It was true that a committee had been appointed to invite the resident clergy to meet the Convention, and open the daily sessions with religious exercises. It was also true that

the committee had reported that they had performed that duty, and that the committee had been discharged; but it was also true that all the resident clergy had not been invited. He knew of one to whom the invitation had not been extended. He had been told by the chairman of the committee that he should not invite that clergyman.

Mr. VAN VALKENBURG—I regret the committee to whom this duty was assigned, have failed so to discharge it as to meet the approbation of my honorable colleague from Oakland. The committee, sir, were strangers in this community, and sought information from respectable residents of the place, by whom they were referred to the clergymen who have officiated for us, and were informed they were the only resident clergymen in the place; and now, Mr. PRESIDENT, is the first time I have ever heard the name of any other person mentioned as a resident clergyman. The committee were both strangers to the gentlemen who have, since their invitation, conducted our devotional exercises; and intended in all good faith to discharge their duties, and can but regret that their action has failed to satisfy any member of this Convention. The resolution offered by my worthy colleague, casting censure upon the committee, I consider neither kind nor courteous, and think its adoption would leave the Convention in a fickle position before the public, having already, through their committee, invited the resident clergy, enjoyed their services, and discharged their committee. True, my friend, Mr. RAYNALE, told me he had a Universalist minister here, but he did not inform me he was a resident, and I supposed he was retained for his own special benefit. I trust the resolution in its present form will not pass.

Mr. RAYNALE was sorry to see any feeling excited upon the subject. He should not have called out the gentlemen [Mr. VAN VALKENBURG] if he could have avoided it. The gentleman seemed to intimate that he did not know there was a Universalist clergyman in the place, and that he must invite that clergyman in order to give satisfaction. He would again repeat that the gentleman said he did not recognize him as a clergyman, and that he would not invite him. He [Mr. R.] had

been driven to the necessity of doing something. Dissatisfaction existed among the members of the Convention. He considered this the most proper mode of having the matter settled. He was opposed to appropriating money from the treasury to pay for the services of the clergymen—he thought it unconstitutional. The resolution he proposed, if adopted, would dispose of the matter more satisfactorily.

Mr. BUTTERFIELD—No arrangement having been made for the services of the clergymen who had been invited, one object in bringing this subject again before the Convention was to have that question settled. It was desirable to know whether the clergymen were to be paid by the State or by private subscription. He should prefer that the question be settled, rather than leave it indefinite. He understood, also, that there was one clergyman, a resident of the place, who had not been invited. If the committee did not know of it, they are excusable—if they did, the object of the resolution had not been carried out by the committee.

Mr. J. D. PIERCE had not been aware, till he saw the journal of this morning, that the committee had been discharged, he having been out of the Hall at the time the report was made. He had suggested to the chairman to report in part. In reply to the question whether the committee had made any proposition in respect to the pay of the ministers invited, he had only to say, that it was no part of the business of the committee to do any such thing. They were not instructed, either by the resolution, or by the Convention in any other form, to make any provision or terms in regard to payment. When he came here he was wholly unacquainted with the clergymen of the place. He had inquired and was informed that there were two laboring here, and the committee invited them. After the report was made, which he had supposed to be only in part, others were said to be here as residents; but he had no knowledge of their names or residence till this morning. Such was his position in regard to this whole matter.

Mr. ROBERTS had sent up the substitute to the resolution offered by the gentleman from Oakland, under an impression, as the Convention cannot make any appropriation for the payment of those clergy-

men who may officiate here, that the next legislature will be applied to, and an expense of one or two thousand dollars incurred in debate on the subject. He should be glad to retain the services of the resident clergy in the manner pointed out, but should be opposed to it if they were to be paid by an appropriation hereafter to be made.

Mr. BUSH said he had not intended to rise on this occasion; but as a resident, it must be presumed that he knew the facts. He would state the facts as he knew them. As a resident, he knew of but two clergymen who were such by profession. A Mr. Sanford, who conducts a paper, preaches sometimes, but does not make it a profession. There is another person who preaches occasionally; a Mr. Tooker, who is a very intelligent man and a respectable citizen, but does not follow preaching as a profession. He [Mr. B.] knew of but two who did.

Mr. BRITAIN said that since his arrival at Lansing he had inquired of several of its citizens the number and names of their resident clergymen, and in every instance he had been informed that there were four. He supposed, of course, that four would be invited by the committee; and he heard this morning with disappointment the declaration of the honorable chairman that but two had been invited. The Reverend Mr. Tooker, of the Baptist denomination, had been universally spoken of as a worthy man. He had both seen and heard him, and appearances certainly were in accordance with these statements. That he lives at the lower town is true, but Mr. Sapp, one of the invited clergymen, lives there also, and farther from this capitol than Mr. Tooker's residence. If Mr. Tooker labors at his trade a portion of his time to support himself and family, and thus make lighter the burthens of his people, he is certainly none the less entitled to consideration on that account.

Mr. WITHERELL had no objection to the invitation of more clergymen, if there were any more in the place; but he objected to sending the Sergeant-at-Arms after them. It seems to be assuming too menacing an attitude.

Mr. McLEOD—Mr. President—If I have rightly apprehended this discussion, the

vexed point is this: that two only of the resident clergymen have been invited under the rule, while, in reality, there are three or four to whom the invitation should have been extended. It is not to be supposed that this exclusion was the result of a mere difference of opinion in matters of religious belief. I cannot suppose that the committee would venture to prostitute the delegated sovereignty of Michigan, which we hold in our hands, to the cause of either party or sect. We are free, and shall remain so, to worship the Great God as we will, without let or hindrance from any created being, be our creed as broad as the winds of heaven. I do not mean to oppose the usage of prefacing our deliberations with prayer. Far from it! I look upon it rather as a tribute to the moral sentiment of the people, precisely as I viewed the proposition of my friend from Chippewa, as a tribute to national pride. In that case I voted that our broad flag should be given to the breeze; and in this case I shall vote for the ceremony of devotion. But, to my view, all that we need and all that we should require of a model chaplain is this: a well-dressed, gentleman-like person, who shall make a brief, business like prayer, and when his task is finished, shall retire to—parts unknown.

Mr. BAGG would briefly define his position: as an individual, he thought he could suit himself best in prayer; but as the Convention was a public body, he had voted for the resolution to invite the clergy to engage in devotional exercises in deference to public opinion, and he should go for the people paying them. If it is the public opinion that the Convention should have clergymen to open the daily sessions with prayer, the public should pay for their services.

Mr. BRITAIN moved to strike out the words "the Sergeant-at-Arms," and insert "a committee of three," which Mr. RAYNALE accepted.

Mr. WITHERELL—It is proposed to say in the outset how we are to pay them. Who has asked for pay? They have been merely invited. Whenever the question comes up for payment, the Convention can decide on the mode.

Mr. EATON said he saw the propriety of having the question settled. The ser-

vices of those clergymen have been required. They have been invited to attend here, and they would most probably have a right to make a charge and present it to be audited. He was opposed to the payment out of the treasury, because he thought it would be an infraction of the constitution. Though he had taken no oath as a delegate in the Convention to support the constitution, yet he felt bound by that instrument, with other members on that floor.

The question was taken on indefinitely postponing, and lost, as follows:

YEAS.—Messrs. Anderson, Backus, J. Bartow, Bush, Carr, Chandler, S. Clark, Comstock, Danforth, Daniels, Edmunds, Gardiner, Green, Hart, Harvey, Kingsley, Leach, Lee, Lovell, Orr, J. D. Pierce, N. Pierce, Prevost, E. S. Robinson, Sutherland, Tiffany, Van Valkenburgh, Wait, Webster, White, Whipple, Whittemore, Witherell, President—34.

NAYS.—Messrs. P. R. Adams, W. Adams, Alvord, Arzeno, Axford, Bagg, Barnard, H. Bartow, Beardsly, Beeson, Britain, Alvarado Brown, Ammon Brown, Asahel Brown, Burns, Butterfield, Chapel, Choate, Church, J. Clark, Conner, Cook, Cornell, Crouse, Desnoyer, Dimond, Eastman, Eaton, Fralick, Gale, Gibson, Hascall, Hixon, Kinne, Marvin, McLeod, McClelland, Moore, Morrison, Mosher, Mowry, Newberry, O'Brien, Raynale, Redfield, Roberts, Robertson, M. Robinson, Rix Robinson, Skinner, Soule, Storey, Sturgis, Sullivan, Town, Walker, Warden, Wells, Williams, Willard, Woodman—61.

The question was taken on the substitute offered by Mr. ROBERTS, and negatived. The question recurring on the original resolution,

Mr. J. CLARK moved to strike out the clause relating to the payment of the clergy.

Mr. VAN VALKENBURG moved to add, that the clergymen who have been invited, be informed of the action of the Convention on the subject. Which was accepted by Mr. RAYNALE.

The question recurring on Mr. CLARK's motion to strike out,

Mr. FRALICK had hoped when the subject was brought up this morning, that the Convention would have come to some

final settlement of the question. If the question of pay was not settled now, some thousands of dollars would probably be expended upon the matter afterwards. If members wanted prayers, let the members pay for them. That was his view of the meaning of the constitution.

The motion to strike out was lost.

Mr. WHITE moved to lay the whole subject on the table. Lost.

Mr. McLEOD said, in order to give an opportunity for the expression of opinion on the subject, he moved that the Convention, on Monday next, shall proceed to the election of a chaplain.

Mr. BRITAIN moved to add, "who shall receive such compensation as shall be subscribed by the members of the Convention for that purpose." Which Mr. McLEOD accepted.

Mr. BRITAIN begged permission of the Convention to detain them for a few moments, in answering the statement of the delegate from Wayne, [Mr. EATON.] That gentleman attempted to maintain the proposition that the Convention had unlimited control over the whole subject, and that it could as legally employ and pay a chaplain as any officer of the Convention. Mr. B. could not draw any such conclusion. The Constitution provides that "no money shall be drawn from the treasury but in consequence of appropriations made by law." The only law under which this Convention can appropriate money, is that in pursuance of which this Convention was called and organized, (approved March 9th, 1850,) and that only authorizes the Convention "to appoint a president, one or more secretaries, a sergeant-at-arms, one or more reporters and such messengers as their convenience shall require." These officers, and these only, can be paid in pursuance of the provisions of this law. A chaplain cannot be so paid unless he is considered one of the officers above named, and thus provided for.

The Legislature of last winter made no provision for the payment of a chaplain; and in justification of that Legislature he begged permission to say that they had no constitutional right to make such provision. There was no authority for such an appropriation in the constitution; but, on the other hand, a fair and impartial interpre-

tation of the constitution would seem to forbid it.

He was aware that this was an extremely delicate and difficult subject—that many men would not be satisfied with any construction of the constitution which withheld it from them; and, he regretted to say, he had frequently seen persons, whose high moral pretensions justified an expectation of better things, engaged in creating prejudices against faithful supporters of the constitution, who happened to stand between them and the treasury, by pointing to them as persons opposed to religion and morality. He had not only seen this injustice but he had felt it, even after having voted for a chaplain and contributed liberally from his own pocket for his support, and he now called upon the religious portion of this Convention to cooperate with us in maintaining with fidelity the constitution which we have many of us so often sworn to support, and in refusing to permit two or three chaplains from pressing a claim upon the next Legislature for services, and thus drawing two or three thousand dollars from the treasury in the discussion of the subject, in addition to the salary ultimately allowed them. And I call upon them also, in all frankness and honesty, to justify us to the people for continuing to oppose all appropriations of money from the treasury for the payment of a chaplain, until such appropriation shall be authorized by a constitution of their adoption.

The question was taken on Mr. McLEOD's substitute and lost, as follows:

YEAS—Messrs. Anderson, Axford, Beardsley, Beeson, Alvarado Brown, Bush, Choate, S. Clark, Cook, Danforth, Edmunds, Gale, Gibson, Hascall, Kinne, Leach, Lee, McClelland, McLeod, Morrison, Mowry, O'Brien, J. D. Pierce, N. Pierce, Prevost, Roberts, Robertson, E. S. Robinson, Soule, Storey, Town, Van Valkenburg, Wait, Webster, Wells, Whittemore, Willard, Witherell—38.

NAYS—Messrs. P. R. Adams, W. Adams, Alvord, Arzeno, Backus, Bagg, Barnard, H. Bartow, J. Bartow, Britain, Ammon Brown, Asahel Brown, Burns, Butterfield, Carr, Chandler, Chapel, Church, J. Clark, Comstock, Conner, Cornell, Crouse, Daniels, Desnoyers, Dimond, Eastman,

Eaton, Fralick, Gardiner, Green, Hart, Harvey, Hixon, Lovell, Marvin, Moore, Mosher, Newberry, Orr, Raynale, Redfield, M. Robinson, Rix Robinson, Skinner, Sturgis, Sullivan, Sutherland, Tiffany, Walker, Warden, White, Williams, Woodman, President—55.

And the question being on the resolution offered by Mr. RAYNALE, Mr. ALVORD called for the yeas and nays, and the same being ordered, the resolution was adopted by the following vote:

YEAS—Messrs. P. R. Adams, W. Adams, Alvord, Arzeno, Axford, Barnard, H. Bartow, J. Bartow, Beardsley, Beeson, Britain, Alvarado Brown, Ammon Brown, Asahel Brown, Burns, Butterfield, Chapel, Choate, Church, Conner, Cook, Cornell, Crouse, Desnoyers, Dimond, Eastman, Eaton, Fralick, Gale, Gibson, Hascall, Kinne, Leach, Marvin, McClelland, Morrison, Mosher, Mowry, Newberry, Raynale, Redfield, Roberts, Robertson, E. S. Robinson, M. Robinson, Rix Robinson, Storey, Sturgis, Sullivan, Town, Walker, Warden, Webster, Williams, Willard, Woodman—56.

NAYS—Messrs. Backus, Bagg, Bush, Carr, Chandler, J. Clark, S. Clark, Comstock, Danforth, Daniels, Edmunds, Gardiner, Green, Hart, Harvey, Hixon, Lovell, McLeod, Moore, O'Brien, Orr, J. D. Pierce, N. Pierce, Prevost, Skinner, Soule, Sutherland, Tiffany, Van Valkenburg, Wait, Wells, White, Whittemore, Witherell, President—35.

On motion of Mr. BACKUS,

Resolved, That the committee on the legislative department be instructed to inquire into the expediency of reporting a provision in the Constitution that no act of the Legislature shall embrace more than one subject, which shall be clearly expressed in its title.

Mr. CHURCH asked to be excused from serving on the committee on printing. He knew nothing of the matter, and as he was of opinion that a more efficient man than himself should stand between the printers and the treasury, he asked to be excused.

Mr. CHURCH was excused and Mr. BRITAIN appointed.

Mr. WITHERELL moved that when

the Convention adjourn it adjourn to Monday next. Lost.

On motion of Mr. McLEOD, the Convention adjourned.

SATURDAY, (6th day,) June 8th.

The Convention was called to order by the President.

Mr. COOK said, as the journals did not show on what day members arriving since the opening of the Convention had taken their seats, he would announce the presence of his colleague, Hon. J. B. GRAHAM.

Mr. WALKER announced the arrival of Hon. H. HATHAWAY of Macomb.

Mr. CHANDLER announced the attendance of Hon. EBENEZER DANIELS of Lenawee.

PETITIONS.

By Mr. COOK: of H. Waldron, E. H. C. Wilson and others, of Hillsdale county, asking that the word "white" may be stricken out of the revised Constitution. Referred to committee on elective franchise.

By Mr. CRARY: of Lewis Wilmarth and 241 citizens of Cal'houn county, praying the Convention to abolish the institution of the Grand Jury. Referred to the committee on bill of rights.

REPORTS.

Mr. McLEOD, from the committee on the mode of amending and revising the Constitution, submitted the following report:

Mode of amending and revising the Constitution.

Section 1. Any amendment or amendments to this Constitution may be proposed in the Senate or House of Representatives; and if the same shall be agreed to by a majority of the members elected to the two houses, such proposed amendment or amendments shall be entered on their journal, with the yeas and nays taken thereon, and referred to the Legislature then next to be chosen, and shall be published for three months previous to the time of making such choice. And if, in the Legislature next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by two-thirds of all the members elected to each house, then it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people,

in such a manner and at such a time as the Legislature shall prescribe; and if the people shall ratify and approve such amendment or amendments by a majority of the electors qualified to vote for members of the Legislature, voting thereon, such amendment or amendments shall become part of the Constitution.

Sec. 2. At the general election to be held in the year eighteen hundred and sixty-five, and in each fifteenth year thereafter, and also at such times as the Legislature may by law provide, the question of a general revision of the Constitution shall be decided by the electors qualified to vote for members of the Legislature; and in case a majority of the electors so qualified, voting at such election, shall decide in favor of a convention for such purpose, the Legislature, at its next session, shall provide by law for the election of delegates to such Convention.

The report was read, accepted, laid on the table and ordered printed.

Mr. S. CLARK, from the committee on the bill of rights, submitted the following report:

ARTICLE 1.

Bill of Rights.

1. All political power is inherent in the people.

2. Government is instituted for the protection, security and benefit of the people; and they have the right at all times to alter or reform the same, and to abolish one form of government and establish another, whenever the public good requires it.

3. No man or set of men are entitled to exclusive or separate privileges.

4. Every person has a right to worship Almighty God according to the dictates of his own conscience; and no person can of right be compelled to attend, erect or support, against his will, any place of religious worship, or pay any tithes, taxes, or other rates, for the support of any minister of the gospel or teacher of religion.

5. No money shall be drawn from the treasury for the benefit of religious societies, or theological or religious seminaries, nor property belonging to the State be appropriated for any such purposes.

6. The civil and religious rights, privileges and capacities of no individual shall be diminished or enlarged on account of

his opinions or belief concerning matters of religion.

7. Every person may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no laws shall be passed to restrain or abridge the liberty of speech, or of the press. In all prosecutions for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury, that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

8. The person, houses, papers and possessions of every individual shall be secure from unreasonable searches and seizures; and no warrant to search any place, or to seize any person or things, shall issue without describing them, nor without probable cause, supported by oath or affirmation.

9. The right of trial by jury shall remain inviolate; but a jury trial may be waived by the parties in all cases, in manner to be prescribed by law; and the legislature may authorize trial by jury of a less number than twelve men, in all courts.

10. In all criminal prosecutions, the accused shall have the right to a speedy and public trial by an impartial jury; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to have the assistance of counsel for his defence; and in all civil cases, in which personal liberty may be involved, the trial by jury shall not be refused.

11. No person for the same offence shall be twice put in jeopardy of punishment; all persons shall, before conviction, be bailable by sufficient sureties, except for capital offences, when the proof is evident or the presumption great; and the privilege of the writ of habeas corpus shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require it.

12. Every person has a right to bear arms for the defence of himself and the State.

13. The military shall, in all cases, and at all times, be in strict subordination to the civil power.

14. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner prescribed by law.

15. Treason against the state shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort: no person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

16. No bill of attainder, ex post facto law, or law impairing the obligation of contracts, shall be passed.

17. Excessive bail shall not be required; excessive fines shall not be imposed; and cruel and unjust punishments shall not be inflicted, nor shall witnesses be unreasonably detained.

18. The property of no person shall be taken for public use without just compensation therefor.

19. The people shall have the right peaceably to assemble together, to consult for the common good, to instruct their representatives, and to petition the Legislature for redress of grievances.

20. No person shall be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty or property, without due process of law.

21. Foreigners who are, or who may hereafter become, *bona fide* residents of this State, shall enjoy the same rights in respect to the possession, enjoyment and inheritance of property, as native born citizens.

22. Neither slavery, nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this State.

23. No person shall be imprisoned for debt, in any civil action on *mesne* or final process, unless in cases of fraud; and no person shall be imprisoned for a militia fine in time of peace.

24. All laws of a general nature shall have uniform operations.

25. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

26. No divorce shall be granted otherwise than by due judicial proceedings; nor shall any lottery hereafter be authorized, or any sale of lottery tickets allowed within this state.

27. The assent of two-thirds of the mem-

bers elected to each branch of the legislature shall be requisite to every bill appropriating the public moneys or property for local or private purposes.

28. No lease or grant of agricultural land for a longer period than twelve years, hereafter made, in which shall be reserved any rent or service of any kind, shall be valid.

29. No corporation shall hold any real estate for a longer period than ten years, except such real estate as shall be actually occupied by such corporation in the exercise of its franchises.

30. All lands, the title to which shall fail from a defect of heirs, shall escheat to the state.

31. All acts of the legislature contrary to this or any other article of this Constitution shall be void.

On motion of Mr. CRARY, the report was referred to the committee of the whole and ordered printed.

Mr. GARDINER, from the committee on printing, to whom was referred the resolutions relative to printing journals, &c., reported the following resolutions, and recommended their adoption:

Resolved, That the State Printer be instructed to print an edition of 480 copies of the daily official journal of this Convention, including the constitution adopted by this Convention, in book form, for binding; and that he be instructed to print a like number of all reports of committees for binding.

Resolved, That the contractor for doing the binding for the State, be instructed to bind, in the same manner as the journals of the legislature are now bound, the journals and such documents as may be printed by order of this Convention, in one volume—the reports to be inserted as an appendix to the journals.

Report accepted, amendments agreed to, and adopted.

RESOLUTIONS.

Mr. BUTTERFIELD offered the following:

Resolved, That there be added to the committee on the judiciary department six members from other occupations and professions than that of the law.

Mr. B. said he offered the resolution as expressive of the wishes of many members of the Convention. The committee,

as it then stood, was composed entirely of members of the legal profession.

There was throughout the state, or at least in his county, [Jackson,] something of a prejudice, a feeling against lawyers; and knowing this to be the case, a report from a committee composed entirely of lawyers would be regarded in a different light than the same report would be if coming from a committee representing other interests than the legal profession. It was not only expedient, but just and proper, that other professions should be represented on the judiciary committee, as all classes of citizens were alike interested in this department of the state government. For these reasons he had presumed to offer the resolution.

Mr. J. BARTOW had no objection to the resolution, but thought the reason assigned far from being a good one. Perhaps the people of Jackson had good reason for their feeling of hostility to lawyers—they doubtless had cause. If the feeling of hostility was to be made a test, it would exclude from the committee all professions. In his section there was a strong feeling against millers, and trades of all kinds.

Mr. CORNELL said the feeling of hostility against the legal profession was as stated by his colleague. It was owing to the fact that there had been so much vacillation in the legislature. That body was generally composed of a large number of lawyers, and yet the law shifted so often that common people could not understand it. He desired a plain, simple code of laws, so that every one might understand them. He hoped the resolution would be adopted.

Mr. ROBERTSON thought if there was any value in the reason assigned for the resolution, it would equally apply to the amendment he proposed. He moved to strike out "six" and insert "ten."

The amendment was carried and the resolution adopted—yeas 85, nays 11.

Mr. WITHERELL offered the following:

Resolved, That the committee on the judiciary be instructed to inquire into the expediency of establishing a supreme court to consist of three judges; and to provide for a division of the state into judicial circuits, and for the election of a circuit judge in each circuit. And that the legislature be empowered to increase the number of

circuits and circuit judges at the expiration of every five years, and not oftener.

Mr. WITHERELL presented the resolution with the view of laying the system before the judiciary committee.

The state was but partially settled now, and the circuit judges could perform the duties of a supreme court; but the population was rapidly increasing, and before another Convention was called to revise the constitution, every part might be densely populated. The Upper Peninsula was destined to contain a population as great as a similar extent of country in the states of New York and New Hampshire. Two or more circuit judges in that region would be required, and they could not attend the sessions of the supreme court. Some provision might be made for setting aside a certain number of circuit judges to form a supreme court.

Referred to committee on the judiciary. Mr. ALVORD offered the following:

Resolved, That the committee on education be instructed to inquire into the expediency of establishing a system of free schools to be supported by general taxation. Adopted.

By Mr. BAGG:

Resolved, That the committee on banks and incorporations be and hereby are directed to inquire into and report upon the expediency of incorporating into the constitution of this state, as a distinct section thereof, the following, to wit: The legislature shall have no power to pass any act granting any charter for banking purposes.

Mr. B. offered the resolution under the full conviction that it expressed the popular will. Our government was based on equality and the principles of equal rights. He believed all banks were based on a doctrine of injustice and unequal rights. Adopted.

On motion of Mr. WELLS,

Resolved, That the committee on the judiciary be instructed to inquire into the expediency of requiring the judges of the supreme court to report to the Legislature at the commencement of each session, what defects they have observed in existing laws, and propositions for amendment.

On motion of Mr. EATON,

Resolved, That the committee on the elective franchise, &c., inquire into the expediency of so amending the constitution

of this State as to secure to the people of this State an annual registry of the names of all legal voters previous to the election.

On motion of Mr. EATON,

Resolved, That the committee on education inquire into the expediency of making constitutional provision for the establishment of such a system of common schools as will, by taxation, bestow the facility of acquiring a good education on every child in this State.

On motion of Mr. WARDEN,

Resolved, That the committee on the elective franchise be instructed to inquire into the expediency of allowing the right of suffrage to aliens, who shall have declared their intention to become citizens of the United States, in accordance with the naturalization laws thereof, and who shall have resided in this State for one year next preceding any election.

On motion of Mr. ROBERTS,

Resolved, That the State Printer be instructed to print 480 copies of all articles, and 480 copies of all reports ordered printed for the use of this Convention.

On motion of Mr. J. D. PIERCE,

Resolved, That the committee on the judiciary be instructed to inquire into the expediency of providing that all acts of the Legislature be submitted to the Justices of the Supreme Court, to decide upon their constitutionality before they take effect, and that subsequently they have no power to declare any act so passed upon to be unconstitutional.

And also, that said committee inquire into the expediency of so simplifying the judicial proceedings as to have but one form of action. And also to provide that the Legislature, at its first session after the adoption of the Constitution, shall appoint three commissioners, whose duty it shall be to reduce to a written code the whole body of the law of this State, or so much thereof as to them shall seem expedient.

On motion of Mr. J. D. PIERCE,

Resolved, That the committee on incorporations be instructed to inquire into the expediency of providing as follows:

1. That the credit of the State shall not be loaned to any person or persons, nor to any company or association, nor shall the State ever be liable for the stock of any corporation whatever.

2. The legislature shall have no power

to pass acts of incorporation, except for municipal purposes.

3. In all cases where damage is done by any corporation to private property, the corporation shall pay to the full amount of such damage.

4. The legislature may pass general laws, under which associations may be formed for all purposes of business, and for religious and charitable objects; but no rights, exemptions, privileges or immunities shall be granted to any association or corporate body which are not secured to every person in the State.

5. No special charters shall be granted for banking purposes, and no association or corporation now existing, or hereafter to exist by virtue of general laws, shall issue any bills under a less denomination than five dollars after the first of January, 185—.

6. The legislature shall have no power to pass any act sanctioning the refusal of any person or persons, association or corporate body, issuing bills, to pay the same on demand.

7. Whenever any banking association shall become insolvent, the bill-holders shall be entitled to preference in payment over all other creditors, and the stockholders shall be responsible in their individual capacity for all the debts and liabilities of the same.

8. No act under which banking associations may be formed shall go into operation until the same shall have been approved by a direct vote of the people at some general election subsequent to its passage.

Mr. TIFFANY moved that the committee on the judiciary be instructed to report a judiciary system which shall not include the present system of county courts.

Mr. T. said he offered the proposition to ascertain the sense of the Convention, as to whether the present system should be retained, or some other adopted. He did not offer it as expressing any opinion of his own.

Mr. BAGG moved to amend by adding, "with the exception of the county of Wayne."

Resolution laid on the table.

On motion of Mr. STOREY,

Resolved, That the committee on the le-

gislative department be instructed to inquire into the expediency of a constitutional provision which shall require the legislature, in making an amendment to an existing law, to re-enact and publish the entire act.

On motion of Mr. FRALICK,

Resolved, That the committee on the legislative department be instructed to inquire into the expediency of providing for single Representative and Senatorial districts, and for biennial sessions of the legislature, in the new Constitution.

Mr. CROUSE offered the following:

Resolved, That the committee on printing be required to cause ——— copies of the rules of this Convention to be printed in the form of a manual, together with such other information as they shall deem useful and appropriate.

After some debate on the printing already ordered, the resolution was referred to the committee on printing.

On motion of Mr. BAGG,

Resolved, That the committee on the legislative department be instructed to inquire into the propriety and expediency of incorporating a provision in the constitution, for any person to sell or vend ardent spirits, or other intoxicating liquors, wholesale or retail, in this State, without license; provided, that such person or persons shall be liable for all the pernicious consequences arising from such sale, to be collected in a court of law; and that the only proof necessary for conviction and judgment, shall be that the defendant or defendants had sold or given to such person or persons ardent spirits, or other intoxicating drinks, twenty-four hours prior to the commission of such offence or offences; and all persons who shall have sold to such defendant or defendants, shall be joined in defence, and pay, after judgment, in proportion to the quantity sold or given to the offender by each, respectively.

Mr. B. said his object in offering the resolution was to show to the temperance men throughout the state that he was willing to render every facility in forwarding the cause of temperance. He thought it had done much good.

He believed the present licensé law a great impediment in the progress of temperance. The proposition to allow all, or any person, to sell ardent spirits, and hold

them strictly liable for the consequences, was much better. At any rate, he wished to tax the ingenuity of the committee to invent some law regulating the sale of liquor, and not leave it to those whose heads were confused with the effects of hard drinking.

Mr. B. was not in favor of total abstinence; yet he never drank without being sick, and occasionally he was very ill.

Mr. WALKER wished to know if the gentleman [Mr. B.] was sick before or after he drank?

The resolution was adopted.

On motion of Mr. WARDEN,

Resolved, That the committee on the punishment of crimes be instructed to inquire into the expediency of providing for the abolition of capital punishment

On motion of Mr. VAN VALKENBURG,

Resolved, That the committee on township officers and township government be instructed to inquire into the propriety of reducing the number of town officers and town expenses.

On motion of Mr. ORR,

Resolved, That the judiciary committee be instructed to inquire into the expediency of dispensing with our present grand jury system.

On motion of Mr. McCLELLAND,

Resolved, That the committee on banking and corporations inquire into the expediency of engrafting upon the constitution a provision requiring all banking institutions to be established by general laws, and to be based on state stock securities, so as to make the bill-holder perfectly secure; and that such general laws, before they take effect, be submitted to a vote of the people.

On motion of Mr. McCLELLAND,

Resolved, That the committee on county officers and county government be instructed to inquire into the propriety of adopting the commissioner system in the counties, or of reducing the number of supervisors to three or five in each county, either electing them by districts or by the whole county.

On motion of Mr. McCLELLAND,

Resolved, That the committee on the judiciary be instructed to inquire into the propriety of abolishing the county court system, and of organizing a supreme court system, and requiring the judges thereof to discharge circuit duties.

Mr. BRITAIN offered the following:

Resolved, That the committee on state officers be instructed to inquire into the expediency of providing for the election of the Speaker of the House of Representatives by the people.

Mr. BRITAIN rose and said: Mr. President—I am aware that the resolution may be unpopular, because it is original, and is not in accordance with the practice of other states; but I trust the Convention will permit me to state briefly some of the reasons which induced me to present it, and which, I think, should commend it to the consideration of this Convention.

1st. It is a resolution of inquiry only, and its adoption can do no harm.

2d. If there be any argument in favor of the election of the presiding officer of the Senate by the people, that argument, with even increased force, calls upon us to provide for the election of a Speaker of the House of Representatives by the people.

3d. It will with more certainty secure to the House an efficient presiding officer; for no state convention of either party will ever put in nomination an inexperienced or an inefficient man for that responsible station.

4th. When elected, he will feel his responsibilities, and have two months to qualify himself for his official duties. He will thus be able to organize the House and proceed at once to business, and save to the state from ten to fifteen thousand dollars necessarily expended in the education of a Speaker, chosen in the present manner by the House, at the commencement of its session. Mr. President, I have said necessarily expended, because the Representative thus honored by the confidence of his associates, finds himself suddenly, and perhaps unexpectedly, elevated to the Speaker's chair, where he not only asks, but expects the forbearance, indulgence and support of the House, from the fact that he has had no opportunity whatever to qualify himself for his official duties; and the business of the House must necessarily move slowly while this suddenly chosen officer is qualifying himself for his duties.

5th. It secures to the people a chance for impartial committees in the House, by putting it out of the power of the candidate for the speakership to secure votes for

himself by indicating the formation of important committees, and also by putting it out of the power of what is usually denominated the "third house," to dictate to the House who shall be chosen for Speaker, and procure the election of such a man as they have previously ascertained will use his prerogative in a manner acceptable to them. Will any one deny that these improper influences have been brought to bear upon the election of Speaker, or that they are hereafter to be anticipated under our present system? Is there any one present so unacquainted with the workings of human policy as to suppose that a Speaker ever was, or ever can be, chosen by the House free from the operation of those improper influences? Sir, I trust not.

Mr. President, I do not say that all candidates for the Speakership have been improperly engaged in those combinations, but I do mean to say that these combinations are thrown around every candidate for Speaker, whether he understands it or not, and that Speakers have seldom been chosen on account of their ability or fitness for the station, but in a great majority of cases, they have been chosen on account of their known or supposed opinions upon particular subjects, and relative to certain interests; and that person who supposes that a Speaker has been, or can be, chosen by the House without being affected by these influences has more charity for frail humanity than I have.

6th. The election of a Speaker by the people does not rob any county of its representative.

7th. The election of a Speaker by the people relieves him from all dependence upon a faction of the house, and even the whole house over which he is called upon to preside, and holds him directly responsible to the people, no portion of whom have an exclusive right to control him, and all of whom have an equal interest in the faithful and impartial discharge of his duties.

8th. The election of a Speaker by the people will effectually remove all causes for that ill feeling so frequently found to exist between a Speaker, chosen by the House, and a disappointed candidate, and which so frequently manifests itself in efforts to embarrass the Speaker to the detriment of public interest.

Mr. President, in conclusion, I beg leave to assure the convention that I have not said one word which was intended to be personal to any one. On the contrary, we cannot look back upon those who have, at different times, been appointed to preside over the deliberations of the House of Representatives, without pride and gratification.

Mr. President, the Speakers whom we have already had, have been as good as those whom we shall hereafter have. The several Houses heretofore elected have been as intelligent and patriotic as those hereafter will be. It is in vain to calculate upon reform in legislation until the manner of transacting legislative business be reformed; and the election of Speaker by the people is one of the most simple and desirable reforms which can be accomplished by this Convention.

On motion of Mr. REDFIELD,

The resolution was amended by adding the words, "whose per diem shall be the same as other members of that body." Adopted.

Mr. BEARDSLEY offered the following:

Resolved, That the committee on the elective franchise be instructed to inquire into the expediency of granting to aliens, now residents, and who shall hereafter become residents of this State, all the privileges of United States citizens within this State.

Mr. BAGG moved to amend by inserting the word "white" before "aliens," which was accepted by the mover, and the resolution was adopted.

On motion of Mr. SUTHERLAND,

Resolved, That the committee on finance and taxation be instructed to inquire into the expediency of abolishing the office of Auditor General, and requiring the legislature to provide for the transaction of the business of that officer at the county seat of the several counties, so far as such business concerns taxation.

On motion of Mr. BUSH,

Resolved, That the committee on the legislative department be instructed to inquire into the expediency of entitling each county at present organized to at least one representative.

On motion of Mr. H. BARTOW,

Resolved, That the committee on education be instructed to inquire into the ex-

pediency of requiring the free schools to be English schools.

On motion of Mr. SOULE,

Resolved, That the committee on the judiciary be instructed to inquire into the expediency of abolishing the distinction between law and equity proceedings; that all causes may be tried upon their merits, and allowing all persons to act as attorneys in any court.

Also, provide that all appeals shall be submitted to a jury, if either party in the suit shall require it.

Mr. WALKER offered the following:

That the committee on the legislative department be instructed to inquire into the expediency of providing that the regular sessions of the legislature shall not be held oftener than once in two years; and that after the first sixty days of any session, the members shall receive no compensation. Also, so that it shall require a vote of two-thirds of all the members elected to each House to create, alter or amend any law, except at such sessions as an entire revision of the laws shall have been ordered to be made in pursuance of a constitutional provision.

Mr. WALKER said he offered the resolution as expressing his own views. He believed the frequent changes, modifications and alterations in the laws to be a great evil, and a remedy would be applied to some extent by adopting biennial sessions. The proposition to require a two-thirds vote in the legislature to alter, create or amend any law, he thought a good one. Members of the legislature were elected without any special view in regard to changing a law, and when they assembled together, if a preference for the statutes of some other State, on any matter, was manifested, they set themselves to work to alter the law.

These changes were made without any corresponding change in public opinion—in fact, against the desire of the people. He thought the constitution ought to require something more than a bare majority to make a change. The resolution was offered to call the attention, not only of the committee, but of the whole Convention to the subject.

Resolution adopted.

On motion of Mr. FRALICK,

Resolved, That the committee on town-

ship officers and township government be instructed to inquire into the expediency of providing that the public business of townships and township officers be performed by three persons, instead of a larger, or the present number.

On motion of Mr. HASCALL,

Resolved, That the committee on State officers be instructed to inquire into the expediency of diminishing the number of State officers, and embracing the duties of two or more into one.

On motion of Mr. BUTTERFIELD,

Resolved, That the committee on finance and taxation be instructed to inquire into the expediency of so forming the organic law as to require the legislature to pass such laws as shall provide for the final collection of all taxes within the townships.

On motion of Mr. BEESON,

Resolved, That the committee on exemptions and the rights of married women be instructed to inquire into the expediency of securing to married women all property owned by them at the time of their marriage, or that they may at any time acquire by inheritance.

On motion of Mr. STURGIS,

Resolved, That the committee on the legislative department be instructed to inquire into the expediency of reducing the per diem of representatives of the legislature to two dollars.

On motion of Mr. FRALICK,

Resolved, That the committee on the judicial department be instructed to inquire into the expediency of the organization of police courts in cities and villages, with a limited criminal jurisdiction.

On motion of Mr. ALVORD,

Resolved, That the committee on the legislative department be instructed to inquire into the expediency of employing the services of chaplains in legislative and conventional bodies, and allowing the same pay as to members of those bodies.

On motion of Mr. ROBERTSON,

Resolved, That the committee on the Legislative department be instructed to inquire into the expediency of vesting all legislative powers in one House—the Lt. Governor to be President of the House.

Mr. WITHERELL offered the following:

Resolved, That the committee on the judiciary be instructed to inquire into the expediency of a constitutional provision

rendering the Governor of the State ineligible to the office of United States Senator during the term for which he may be elected.

Mr. HASCALL moved to amend by inserting after "United States Senator," the words "or any other office;" which was adopted.

Mr. BACKUS moved to amend by inserting after the word "State," "and Judges of the Supreme Court."

Mr. WITHERELL moved to amend the amendment by inserting after "Supreme," the words "and Circuit," which motion prevailed, and the amendment was adopted.

On motion of Mr. CORNELL,

The resolution was amended by adding thereto the words "and for one year thereafter."

The resolution as amended was adopted.

On motion of Mr. HART,

Resolved, That the committee on the judiciary be required to inquire into the expediency of abolishing the Probate Court and creating some kind of County Court, with Surrogate and Probate jurisdiction.

Mr. LEACH offered the following, which by his request, was laid upon the table:

Resolved, That this Convention is in favor of biennial sessions of the Legislature.

Mr. WILLARD offered the following:

Resolved, That when this Convention adjourn, it adjourn to meet at Detroit, on

Mr. BUSH asked if the gentleman intended to fill the blank with "the public square."

Mr. LEACH moved to indefinitely postpone the same.

Mr. BUSH demanded the yeas and nays on the motion; and the demand being sustained, the resolution was indefinitely postponed, as follows:

YEAS—Messrs. W. Adams, Axford, Barnard, H. Bartow, J. Bartow, Beardsley, Britain, Alvarado Brown, Ammon Brown, Burns, Bush, Carr, Church, S. Clark, Comstock, Conner, Cook, Cornell, Crary, Crouse, Danforth, Dimond, Eastman, Edmunds, Gale, Gardiner, Graham, Green, Harvey, Hascall, Hathaway, Hixon, Kingsley, Kinne, Leach, Lee, Lovell, McClelland, Mosher, Mowry, O'Brien, Orr, J. D. Pierce, N. Pierce, Prevost, Redfield, Robertson, E. S. Robinson, Rix Robinson, Soule, Sto-

rey, Sturgis, Sullivan, Town, Wait, Walker, Warden, White, Williams—59.

NAYS—Messrs. P. R. Adams, Alvord, Anderson, Arzeno, Backus, Bagg, Beeson, Asahel Brown, Butterfield, Chandler, Chapel, Choate, J. Clark, Daniels, Desnoyers, Eaton, Fralick, Gibson, Hart, Marvin, McLeod, Moore, Morrison, Newberry, Raynale, Roberts, M. Robinson, Skinner, Sutherland, Tiffany, Van Valkenburg, Webster, Wells, Whittemore, Willard, Witherell, Woodman, President—38.

Mr. BRITAIN offered the following:

Resolved, That the committee on printing, who were on the 7th inst. ordered to procure in convenient form for the use of each member of this Convention, a copy of the present Constitution of this State, be instructed to procure the printing, in the form of a manual, of the rules adopted by this Convention, with said Constitution, with lists of members and officers, showing their place of nativity, occupation, post office and present boarding house. Also, a calendar and statement of all standing committees of this Convention; and that 240 copies of the same be published for the use of this Convention.

Mr. J. BARTOW opposed the resolution on the ground that a sufficient number of copies of the Constitution had been already ordered, and the printing of a manual would be a useless expense.

After some explanation by Mr. BRITAIN, as to the printing ordered, and the use of a manual, the resolution was adopted.

On motion of Mr. BEARDSLEY,

Resolved, That the committee on exemptions and the rights of married women be instructed to inquire into the expediency of allowing married women to dispose of any property, real or personal, by will, without the consent of their husbands.

On motion of Mr. BEARDSLEY,

Resolved, That the committee on the judiciary be instructed to inquire into the expediency of establishing one or more judges, to be elected in each organized county, to hold township courts within such county, for the trial of all causes in which the amount of damages claimed shall not exceed two hundred dollars; and of such criminal jurisdiction as shall be provided by law; and of prohibiting justices' courts from the trial of civil and criminal causes.

On motion of Mr. ORR,

Resolved, That the committee on banking and other corporations, except municipal, be instructed to inquire into the expediency of reporting a constitutional provision making the stockholders in such corporations individually liable for the term of one year after they cease to become such stockholders.

On motion of Mr. MOORE,

Resolved, That the committee on the legislative department be instructed to inquire into the propriety of settling contested elections in their respective counties and districts, and save the expense of coming before the legislature with such disputed claims.

Mr. VAN VALKENBURG offered the following:

Resolved, That one hundred and twenty copies of the manual of this Convention be bound in the same form and of the same material as the manual of the legislature of this state at its session of 1850.

Mr. J. CLARK moved to lay the resolution on the table, which was not agreed to.

Mr. BUSH moved to adjourn, but the Convention refused to adjourn.

The resolution, as offered by Mr. VAN VALKENBURG, was then adopted by yeas 47, nays 39.

On motion of Mr. HASCALL,

Resolved, That the committee on exemptions and the rights of married women be instructed to inquire into the expediency of abolishing all laws for the collection of debts under a limited amount.

Mr. WELLS moved that Mr. WITHERELL be excused from serving on the committee on the punishment of crimes; but the motion to excuse was lost.

The President announced the following committee on the invitation of clergymen, &c.: MESSRS. RAYNALE, J. D. PIERCE and WEBSTER.

On motion of Mr. COOK,

The Convention adjourned till Monday morning.

MONDAY, (7th day,) June 10.

Prayer by the Rev. Mr. ATTERBURY.

Journal of yesterday's proceedings corrected.

PETITIONS.

By Mr. FRALICK: of E. J. Penniman, D. H. Rowland, Bethuel Noyes, and 400 others, of Wayne county, in favor of biennial sessions of the Legislature, of limited duration, and single districts for Senators and Representatives, and county boards of supervisors, dividing counties when required into Representative districts.

Referred to committee on the legislative department.

Mr. VAN VALKENBURG presented the petition of Hiram Barrett and 41 others of Oakland county, embracing a variety of improvements and amendments to the constitution.

Mr. VAN V. said the propositions were so many and so various, that he was unable to designate the appropriate committee to which it should be referred.

Mr. McLEOD—I move its reference to the committee on miscellaneous provisions.

It was so referred.

Mr. BACKUS presented the proceedings of the common council of the city of Detroit, tendering the use of the City Hall for the use of the Convention, should it adjourn to that city. Laid on the table.

The PRESIDENT announced a communication from Orville B. Dibble on the same subject.

REPORTS.

Mr. McCLELLAND, from the committee on rules, submitted the two following, to be added to the standing rules of the Convention:

RULE 37. Every article shall receive three several readings previous to its being passed; and the second and third readings shall be on different days; and the third reading shall be on a day subsequent to that in which it has passed a committee of the whole, unless the Convention, by a vote of two-thirds of the members present, shall direct otherwise.

RULE 38. No article shall be committed or amended unless it has been twice read.

RULE 39. Every article when read a third time and passed, shall be referred to the committee on arrangement and phraseology.

The rules were severally adopted by a two-thirds vote.

Mr. J. CLARK, from the committee on the division of the powers of government, submitted the following:

ARTICLE —.

Division of the Powers of Government.

Section 1. The powers of this government shall be divided into three distinct departments, the Legislative, Executive and Judicial.

Sec. 2. No person or persons belonging to any one of these departments, nor either of the departments, shall exercise any of the powers properly belonging to either of the others, except in the cases expressly provided for in the constitution.

Referred to the committee of the whole and ordered printed.

Mr. GARDINER, from the committee on printing, to whom was referred the resolutions relative to printing the proceedings and debates of this Convention, reported the same back to the Convention and recommended the following amendments, viz: Strike out of the first resolution, "one thousand copies," and insert "twelve hundred." Strike out of the second resolution, "one copy to each of the judges of a court of record in this State," and insert "one copy for the use of the office of each county clerk in this State, and one copy for the clerk of the supreme court;" to which they asked the concurrence of the Convention.

Which was agreed to.

Mr. STOREY proposed to amend by striking out the word "ten," and inserting "one hundred, to be deposited in the State library."

Which was agreed to, and the resolutions as amended were adopted.

On motion of Mr. BRITAIN,

Resolved, That the committee on printing cause the rules this morning adopted to be printed with the rules.

Mr. WITHERELL offered the following:

Resolved, That for the purpose of preserving the purity and efficiency of future conventions to revise the constitution, the committee on the legislative department be instructed to inquire into the expediency of providing for an election by the people of Presidents of such conventions; and in case of any doubt existing as to such expediency, said committee be instructed to consult precedents.

Mr. WITHERELL said he introduced the resolution to accompany the one intro-

duced by the gentleman from Berrien, [Mr. BRITAIN,] in relation to the election of Speaker of the House of Representatives. It would be just as well that the President be elected in the same way, and for the same purpose, and for the reasons assigned by the gentleman from Berrien. The reasons were very cogent, applicable and proper for the House of Representatives—they would be equally applicable in favor of the election of Presidents of the Convention by the people.

The resolution was negatived.

Mr. FRALICK offered the following:

Resolved, That the committee on the legislative department be instructed to provide for single representative districts in their report.

Which, on motion of Mr. VAN VALKENBURGH, was laid upon the table.

Mr. AMMON BROWN offered the following, which,

On motion of Mr. CRARY, was laid upon the table;

Resolved, That the committee on the legislative department be instructed to report an article or articles providing for single senatorial districts.

Mr. MORRISON offered the following:

Resolved, That corporations for banking purposes shall be formed, extended or renewed by special laws, but no such act of incorporation, extension or renewal shall take effect until the same shall have been submitted to the people at the next general election succeeding the passage of the same, for representatives, and approved by a majority of all the votes cast at such election for and against such law; and that but one act of incorporation, extension or renewal of any corporation with banking powers shall be passed during any one session of the Legislature. No such corporation shall be formed, extended or renewed for a longer period than fifteen years.

Referred to the committee on banking and other incorporations.

Mr. MORRISON offered the following, which was referred to the committee on miscellaneous provisions:

Resolved, That when private property is taken for the use or benefit of the public, the necessity of using such property, and the just compensation to be made therefor, shall be ascertained by a jury of twelve

freeholders, residing in the vicinity of such property, or by not less than three commissioners appointed by a court of record, as shall be prescribed by law. That private roads may be opened in the manner to be prescribed by law; but in every case the necessity of the road, and the amount of all damages to be sustained by the opening thereof, shall be first determined by a jury of freeholders; and such amount, together with the expenses of the proceedings, shall be paid by the person to be benefited.

Also the following, which was referred to the committee on exemptions and the rights of married women:

Resolved, That any person, in order to avail himself of any provision in this constitution, or of law exempting property from forced sale on executions, shall make and file (at such time as shall be prescribed by law, once in each year, with some officer to be designated by law in the township, village or city in which he resides,) an affidavit, setting forth a description of the property of which he is the owner, and the value thereof. Also a statement of the amount of his indebtedness.

On motion of Mr. BAGG,

Resolved, That the committee on the judiciary department be instructed to inquire into the expediency of establishing in incorporated cities, municipal courts, with civil and criminal jurisdiction.

On motion of Mr. STOREY,

Resolved, That the committee on miscellaneous provisions be instructed to inquire into the expediency of a constitutional prohibition against the employment of State prisoners in those branches of mechanical labor which interfere with mechanical trades in this State.

Mr. VAN VALKENBURGH offered the following:

Resolved, That the committee on the legislative department be instructed to insert a provision into the constitution authorizing each House of the Legislature to employ a Chaplain during their sessions, who shall be entitled to the same *per diem* allowance as members of their respective bodies.

On motion of Mr. McLEOD, the resolution was referred to the committee on the legislative department.

Mr. BEARDSLEY offered the following:

Resolved, That the committee on the judicial department be instructed to inquire into the expediency of allowing any white male resident of this State, twenty-one years of age, to practice as an attorney and counsellor in any of the courts of law, and as a solicitor in chancery in this State, on filing a written notice of his intention in the office of the Clerk of the Supreme Court.

On motion of Mr. McLEOD, the resolution was amended by striking out the word "white."

Mr. S. CLARK moved to lay the resolution on the table.

Which motion was lost; when, on motion of Mr. CROUSE, the resolution was indefinitely postponed.

On motion of Mr. BEARDSLEY,

Resolved, That the committee on the judicial department be instructed to inquire into the expediency of including the fees of counsel, attorneys and solicitors in the costs of suits at law and in equity, and enforcing their payment by execution, against the losing party; and also of restricting counsel to certain fees in all the courts of this State; and attorneys and solicitors to such fees as shall be provided by law.

On motion of Mr. BEARDSLEY,

Resolved, That the committee on the judicial department be instructed to inquire into the expediency of prohibiting special and dilatory pleas and demurrers in all the courts of this State.

Mr. BEARDSLEY offered the following:

Resolved, That the committee on the elective franchise be instructed to inquire into the expediency of granting the right of suffrage to all white and single females, twenty-one years of age, and who are now or who shall hereafter become residents of this State.

Mr. CROUSE proposed to amend by adding after the word "single" the words "and married," which was accepted by the mover.

The resolution was not adopted.

On motion of Mr. WITHERELL,

Resolved, That the committee on the legislative department be instructed to inquire into the expediency of providing that no property of individuals shall be taken for the use of the State or of any

corporation without payment therefor being first made.

On motion of Mr. BACKUS,

Resolved, That the committee on the legislative department be instructed to inquire into the expediency of reporting a provision in the constitution that the Legislature shall pass no retrospective laws.

On motion of Mr. BACKUS,

Resolved, That the committee on miscellaneous provisions be instructed to inquire into the expediency of reporting a provision in the constitution that private property shall not be taken for public use, or the use of corporations, municipal or otherwise, without compensation first provided, and actually paid or tendered.

On motion of Mr. BACKUS,

Resolved, That the committee on the legislative department inquire into the expediency of reporting a provision in the constitution that every person holding claims against the State may sue for such demand in like manner and with the same facility as suits may be brought against individuals.

Mr. WITHERELL would make a single observation. The Legislature would be always able to provide, whenever a case should be made out and a claim established. The report of the committee in favor of such a proposition would give it additional security and strength. The establishment of such a provision might bring the State under the liability of paying the balance of the five million loan. Though the parties holding the bonds have no equitable, they may have a legal claim. It has always been left for the Legislature to provide for the exigency of any case.

Mr. BACKUS—The resolution calls upon the committee to consider, and if necessary, report on a state of facts with which every member must be familiar—to inquire into the propriety of allowing suits to be commenced against the State, where citizens have just and legal claims, instead of requiring them to resort to the Legislature with their petition of right, subjecting their claims to postponement from session to session, sometimes without obtaining satisfaction and redress. He (Mr. B.) saw no objection that the State be subject to the course of proceedings that citizens and corporations are subject to. If the State owe just debts, let the State be com-

pelled to pay. This was merely a resolution of inquiry, and he did not wish to go far on the present occasion in discussing the question. There was one point he would mention. It would supersede all the protracted discussion which arises and has arisen on applications to the Legislature for the payment of doubtful claims. To the bonds of the State it does not go. He would take some other opportunity of stating his views on the subject.

Mr. WITHERELL was afraid of some Galphin claim coming up. He did not wish to see such claims as that galvanized. He did not feel disposed to go into an extended argument to show why this should not be inquired into. If such a principle were adopted, and the State were liable to be sued at all times, suits against the State would be as plenty as blackberries. The State has never shown a disposition to do injustice to claimants. Claims have been fairly examined, and appropriations made for their payment; and several hundreds of thousands of dollars have been paid out of the treasury on claims adjudicated which it would have been difficult to establish in a court of law.

The resolution was adopted.

On motion of Mr. O'BRIEN,

Resolved, That the committee on exemptions, &c., be requested to inquire into the expediency of exempting the property of every individual, to the amount of five hundred dollars, from sale on execution or other process of law or equity.

On motion of Mr. ALVORD,

Resolved, That the committee on the judiciary be instructed to inquire into the expediency of abolishing the court of probate.

On motion of Mr. TOWN,

Resolved, That the committee on county officers and county government be instructed to inquire into the expediency of uniting the offices of county clerk and register of deeds in one office, and of reducing the fees of both.

On motion of Mr. S. CLARK,

Resolved, That the committee on education be instructed to inquire into the expediency of providing for the establishment of an agricultural school and model farm connected therewith.

On motion of Mr. GIBSON,

Resolved, That the committee on elec-

tive franchise be instructed to inquire into the expediency of prohibiting duelists and persons guilty of betting on elections from exercising the right of suffrage.

On motion of Mr. SKINNER,

Resolved, That the committee on the judiciary be and they are hereby instructed to inquire into the expediency of authorizing the supervisors of each county to make as many judicial districts in each county, (not exceeding the number of representative districts,) as, in their opinion, will best suit the convenience and wants of the people thereof; in each of which shall be elected a district justice for the term of four years, with such civil and criminal jurisdiction as shall be conferred by law.

On motion of Mr. BRITAIN,

Resolved, That the State Printer be requested to print twelve hundred copies of the daily journal for the use of this Convention, instead of ten hundred, as heretofore ordered.

On motion of Mr. STOREY,

Resolved, That the committee on the legislative department be instructed to inquire into the expediency of a constitutional provision prohibiting the legislature from legislating on any claim against the State.

Resolved, That the committee on State officers, (except executive,) be instructed to inquire into the expediency of creating a board of State Auditors, who shall act upon all claims against the State, and from whose decision there may be an appeal to the supreme court.

On motion of Mr. DANIELS,

Resolved, That the committee on punishment of crime be instructed to inquire into the propriety of incorporating into the constitution the establishment of a house of refuge or correction, for the punishment of juvenile and female offenders.

On motion of Mr. ROBERTSON,

Resolved, That the committee on education be instructed to inquire into the expediency of providing for the election of one school superintendent in each county, whose duties shall be prescribed by law, and to be in lieu of the present system of township school inspectors.

Mr. MOORE offered an amendment to the Bill of Rights, as follows: "Any citizen of this State who may hereafter be engaged, either directly or indirectly, in a

duel, either as principal or accessory before the fact, shall forever be disqualified from holding any office under the constitution and laws of this State.

Referred to the committee of the whole.

Mr. CHAPEL offered the following:

Resolved, That in the opinion of this Convention, no member is entitled to his per diem, unless his name appears daily upon the journals of this Convention. Sickness only excepted.

Mr. WITHERELL—Does that provide for cases where leave of absence is granted?

Mr. McLEOD moved to amend by adding, "and when not excused by the Convention." If [said Mr. McL.] we have to send our chairman of committee of supplies repeatedly to Detroit for stationery, it would not be right to deprive him of his per diem allowance.

Mr. ——— The names of members do not go on the journal.

The CHAIR—When the roll is called, the names only of those who are absent are noted on the journal.

Mr. J. D. PIERCE—Then the absentees will be entitled to pay, and no others.

On motion of Mr. MASON, the resolution was laid upon the table.

On motion of Mr. HART,

Resolved, That the committee on the judiciary be required to inquire into the expediency of incorporating in the constitution, authority to the Legislature to establish courts of conciliation.

On motion of Mr. WILLIAMS,

Resolved, That the committee on the judicial department be instructed to report a provision for the new constitution, authorizing the Legislature to establish courts of conciliation, with powers and duties prescribed by law, whose jurisdiction shall be cœextensive with organized towns; and after such courts shall have been established for seven years, to create similar courts of wider jurisdiction.

On motion of Mr. WILLIAMS,

Resolved, That the committee on finance and taxation be instructed to inquire into the expediency of so restricting any system of taxation as to prevent one citizen acquiring the right to the property of another by virtue of a tax title, and that they be further instructed to inquire into the expediency of having all lands escheat to the

State on which taxes have not been paid for — years.

On motion of Mr. WILLIAMS,

Resolved, That the committee on miscellaneous provisions be instructed to inquire into the expediency of inserting in the constitution a provision substantially as follows: "Lands now flowed, and unimproved lands which may hereafter be flowed by the erection of mill dams, shall be paid for in the manner to be provided by law; and the actual value of the land flowed shall be determined by a jury of freeholders, and such value and the expenses of determining the same shall be paid by the party erecting the dam."

On motion of Mr. WILLIAMS,

Resolved, That the committee on exemptions and the rights of married women be instructed to inquire into the expediency of abolishing all laws for the compulsory collection of debts after the year 1854.

Mr. WILLIAMS said he would make one remark. The gentleman from Kalamazoo had sent up a resolution of a similar character. The resolution he (Mr. W.) proposed was more extended; it contemplated the abolishing of all laws for the collection of debts—such law not to be put in operation till after the year 1854.

On motion of Mr. HIXON,

Resolved, That the committee on the judicial department be instructed to inquire into the expediency of abolishing all laws for the collection of debts.

On motion of Mr. WITHERELL,

Resolved, That the committee on the schedule be instructed to inquire into the expediency of providing in said schedule for the payment of such expenses of this Convention as have not been provided for by the Legislature.

On motion of Mr. CORNELL,

Resolved, That the committee on towns be instructed to inquire into the expediency of merging the offices of supervisor, assessor, commissioners of highways and directors of the poor into one office, and the duties to be performed by three individuals.

On motion of Mr. RAYNALE,

Resolved, That the committee on miscellaneous provisions be instructed to inquire into the propriety of prohibiting the Legislature from passing any resolutions of instructions to our Senators in Congress,

unless by a two-thirds vote of the members elected to each House.

On motion of Mr. CHAPEL,

Resolved, That the committee on the legislative department inquire into the expediency of so altering the present mileage of members of the Legislature to and from the capital of this State as not to exceed eight cents per mile.

The PRESIDENT announced the following additional members of the committee on the judicial department, under the resolution of the 8th inst: Messrs. BUTTERFIELD, HIXON, COMSTOCK, COOK, ASAHE L BROWN, HATHAWAY, MOWRY, LEE, TOWN and BAGG.

Additional members of the committee on the government and judicial policy of the upper peninsula, under resolution of the 8th inst: Messrs. ROBERTSON and GRHAM.

On motion of Mr. COOK, the Convention went into committee of the whole on the Bill of Rights, Mr. BRITAIN in the chair.

Section 3 was read—"No man or set of men are entitled to exclusive or separate privileges."

Mr. WALKER offered the following substitute: "All men are entitled to equal rights and privileges."

Mr. WALKER said: Mr. Chairman, it seems to me the principle as stated in the third article, as reported by the committee, is subject to a great many limitations. Though no man or set of men are entitled to exclusive rights and privileges, yet they are certainly entitled to separate privileges. Many are the relations of life in which the principle there declared is not a fact—that men are entitled to exclusive privileges. I think the amendment is more expressive of the principle intended to be asserted.

Mr. CRARY—I would ask what the privilege of voting is—whether it be a privilege of such a character?

Mr. WALKER—I suppose it to be a right.

Mr. CRARY said the section as reported did not open the door which the amendment does. The amendment asserts that all are entitled to equal rights, one of which the gentleman [Mr. WALKER] says is the right of voting. Then every man is entitled to the right of voting. If the amend-

ment should be adopted, it would make no difference what other distinctions were made in the other articles, no amendment could be made in the elective franchise.

Mr. WALKER—The language of the proposed amendment may not be strictly correct, but it obviates some objections in the other proposition. It states that no men are entitled to exclusive privileges. It seems to me to be the adoption of Fourierism to the fullest extent. The object he had in view might be accomplished to some extent by striking out the word "separate."

The substitute was non-concurred in.

Mr. REDFIELD moved to strike out the words "or separate," which did not prevail.

Section 5. No money shall be drawn from the treasury for the benefit of religious societies, or theological or religious seminaries, nor property belonging to the state be appropriated for any such purpose.

Mr. FRALICK offered an amendment, to add to the end of the section, "and no money shall be drawn from the treasury for the payment of any religious services."

Mr. F. said he offered the amendment for this reason: that the proposed article in the bill of rights does not close up the gap by which thousands of dollars have been taken from the treasury contrary, he believed, to the intention of the framers of the constitution. If the proposed amendment be inserted, no money can be drawn from the treasury for the payment of religious services for the state. If this be put in, the question will be settled which has been agitated in every session of the legislature since we became a state; some contending that the article in the constitution did not authorize the legislature to employ a chaplain to be paid by the state, others that it did. Thousands of dollars had been expended in a manner which he (Mr. F.) believed the people of the state did not intend.

Mr. VAN VALKENBURG said: Mr. President—I hope this amendment will not prevail, though I am glad the subject has been brought before this Convention. It is well known to gentlemen upon this floor that this question has been a prolific subject of controversy these many years, and has cost the state much more in its discussion than would have been required to effect the object of the friends of morality and reli-

gion. It is high time this vexed question was settled in our organic law, that the time and energies of future legislatures may be spared for other purposes. Shall we leave it an open question for all future time to agitate and distract our legislative bodies? To excite discord and animosity between men who come here for one common object, and who should have but one common interest? Or shall we, sir, put this question above and beyond the reach of agitators, and stamp upon our Constitution that sound moral impress which I am confident pervades this Convention? I am opposed to the amendment of the gentleman from Wayne, and hope the expression of this Convention will put to rest this agitating question.

Sir, are we ready to say we will forever exclude from our legislative halls the services of the clergy; services rendered doubly sacred by uniform practice since our pilgrim fathers first landed on this continent? If gentlemen have no reverence for the law of God, which requires them to acknowledge him in all their ways, have they no reverence for long established precedent? Let us refer them to the advice of the Father of our Country in his Farewell Address, uttered as he was about to bid adieu to his public labors, when this whole nation hung with breathless silence and throbbing heart upon his lips:

"Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism who should labor to subvert these great pillars of human happiness, these firmest props of the duties of men and citizens. The mere politician, equally with the pious man, ought to respect and to cherish them. A volume could not trace all their connexions with private and public felicity. Let it simply be asked, where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths which are the instruments of investigation in courts of justice? And let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on the minds of peculiar structure, reason and experience both forbid us to expect that national

morality can prevail in exclusion of religious principle.

"It is substantially true, that virtue or morality is a necessary spring of popular government. The rule, indeed, extends with more or less force to every species of free government. Who, that is a sincere friend to it, can look with indifference upon attempts to shake the foundations of the fabric?"

Sir, these are the sentiments of a man who was eminently virtuous, whose name is embalmed in the heart of every American; sentiments handed down with religious reverence from his day to the present. Is there any one here ready to dispense with these cherished customs; any to forbid us to employ a clergyman to open our daily sessions with prayer? Who upon this floor will array himself against the institutions of religion and morality? Where the man who is ready to throw off all moral restraint and rush upon the thick bosses of Jehovah's buckler? I ask where? Beware, vain man! he dasheth his enemies in pieces like a potter's vessel. Hast thou an arm like God? Can'st thou thunder with a voice like him?

I trust, Mr. Chairman, I shall never see the day when this beautiful Peninsula, the home of my adoption, with her chrystal lakes, her extended plains, her exuberant soil and her mineral wealth, shall, through her representatives, repudiate the government of that Almighty Being who has given us this goodly heritage, who showers upon us the early and the latter rain, clothes our fields with verdure, and satisfieth the desires of every living thing. Let us remember, Mr. Chairman, let us remember, gentlemen of the committee, pilgrims to eternity, we have duties to discharge which will leave their impress upon our institutions for all coming ages, and will connect our action with the weal or woe of generations yet unborn; and above all, let us remember "righteousness exalteth a nation, but sin is a reproach to any people."

I call upon you, Mr. Chairman, I call upon you, gentlemen of the Committee, I adjure you by all that is desirable in life, and all your hopes for the future, oppose this amendment, individually, unitedly, that you may enjoy the consciousness of having discharged your duty; that you may enjoy

the thanks of a grateful constituency and the smiles of an approving God.

Mr. HASCALL would inquire whether the object of the gentleman could not be obtained without the application of the root of all evil.

Mr. WITHERELL proposed to amend by adding "except chaplains appointed by the two houses of the legislature."

Mr. McCLELLAND recommended the gentleman from Wayne to withdraw the proposed amendment, and offer it again when the legislative article should come under consideration.

Mr. FRALICK assented, and withdrew his amendment.

Section 6. The civil and religious rights, privileges and capacities of no individual shall be diminished or enlarged on account of his opinions or belief concerning matters of religion.

Mr. J. D. PIERCE moved to strike out the word "religious," and insert "political." Which was adopted.

Section 7. Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right; and no laws shall be passed to restrain or abridge the liberty of speech or of the press. In all prosecutions for libels, the truth may be given in evidence to the jury, and if it shall appear to the jury that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

Mr. BARTOW, of Genesee, moved to strike out the words "with good motives and for justifiable ends."

Mr. B. said he offered the amendment with the view of bringing before the Convention a question which has agitated the courts and legislative bodies to some extent, and thus take the sense of the committee, whether there should be any distinction between the law relating to libel and every other law. There is one maxim that has long prevailed, that truth is mighty and shall prevail. If so, it ought to be a sufficient justification of publication that it was true. The article contains a provision that the liberty of the press shall not be abridged; yet by the words he proposed to strike

out, it was abridged—that the truth shall only be published for good motives and justifiable ends. He thought it wrong to go beyond the truth. The motives and the ends were unnecessary to be gone into, in matters charged as libellous, the truth should be the justification without any inquiry into motives. The truth should not be considered libellous. No man should be punished for publishing anything that in itself is true.

Mr. HASCALL.—The end may be attained, so far as a civil suit is concerned; but this provision applies to criminal suits, and is necessary to preserve the public peace and maintain good order in society. In civil suits the construction of the article in the constitution has been given according to the views of the gentleman from Genesee.

Mr. ——— would inquire whether there was any distinction in this respect between criminal and civil proceedings in cases of libel. He had supposed that every man would be justified by proving the truth of the publication; that in any case he should not suffer any penalty of law for publishing the truth.

Mr. WITHERELL would say the sole object of the provision was to prevent the stirring up of quarrels and the publication of matters which it is improper for the public to know, and which are sometimes improperly obtained. It is well known that difficulties sometimes occur in families; but it is better they should be forgotten, than raked up and published in the newspapers. He is allowed to publish, but liable to be punished if he stirs up broils and animosities in a community with bad intent. The jury are judges whether that was published with good intent or from malicious and bad motives. If from bad motives and evil intent, the community holds him liable, and punishes him for the malice he exhibits. For the intended evil he is held responsible.

Mr. ROBERTSON was opposed to the amendment. The proper object to be obtained would be by throwing the *onus* on the prosecution. If we are to inquire into the motives, the *onus* should be thrown on the prosecution to show that it was published with bad motives. It is a principle established in law, and is right, that the

prosecutor should show the bad or malicious motives.

Mr. HANSCOM believed the principle laid down in the old constitution, and reported by the committee, was the best. The old doctrine, the greater the truth the greater the libel, was exploded. The truth constitutes a defence absolutely in civil proceedings. The last clause applies altogether to criminal prosecutions. The object is to throw around the private citizen and the public a shield against the stirring up of contention by the publication of scandalous reports. It is as easy to excite controversy, and to produce results tending to dueling, assaults and batteries, by the publication of truth, as falsehood. The object of the provision in the constitution is to preserve the public peace.

In the modification of the constitutions of the several states within the last few years, they have not departed from that principle. He hoped the principle would be sustained by this Convention, and embodied in the constitution.

Mr. BEARDSLEY was in favor of striking out the words, as proposed by the amendment. It would be more conducive to the rights of men than the present clause. How is it possible to show a man's motives, his good or his bad intentions, unless his own testimony is admitted. No man can swear to the intention of the heart except himself. In order to do justice, if the amendment is not made, it will be necessary to make him a witness in his own defence.

Mr. McLEOD did not see the force of the objection made by the gentleman who last spoke. The question of *intent* was a question of fact, and was inferable from the circumstances under which the alleged libellous matter was uttered. We cannot, of course, withdraw the veil, and press into the thousand mysteries of the human heart in search of motives. All we can do is to listen to the details of the case, as presented by the testimony of witnesses; and from these details to infer the *motive* which prompts the publication. It is entirely in accordance with the whole tenor of legal adjudication, that the *gravamen* of the offence consisted in the *animus in quo*, the disposition in which the offence was committed, rather than in the mere matter

itself. It is a maxim of divine wisdom that the "fool uttereth all his mind, but the wise man keepeth it till afterwards." The truth may be rendered even more mischievous than a falsehood. And if mischievous *truth* be uttered, I am in favor of a provision that will throw upon the utterer the burden of proof, that it was done from a good motive and with a justifiable end.

Mr. ROBERTSON—Although it may appear that the matter published is true, yet it is assumed it was done from bad motives, and becomes a crime; but in this case, the strangest thing ever known is that after the thing is proved to be true, it is required that the motives must be shown to be good, or the person may be punished. He (Mr. R.) would have it so that the *onus* should be thrown on the prosecution, requiring them to show that it was done with bad intent. The question of motives must be decided by circumstances and facts. If it is true, it ought always to be an assumption of law that it was published with good motives. If facts and circumstances be shown that it was not so, the burden of proof should be thrown on the prosecution.

Mr. SULLIVAN had supposed the law to be that the truth being proved in justification, it would be assumed to be from good motives, and, unless the publication was shown to be from bad motives, an acquittal would be had. It appeared to him that it ought to be *prima facie*, conclusive; and that the burden of showing bad motives should be thrown on the prosecution.

Mr. J. BARTOW would ask if it was not already provided "that every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right." The legislature may provide for punishment. Why single out this matter of libel and make it an exception? requiring a person to show that his motives were good. With good motives a man may mistake his ends. He must still contend that the truth should be a justification, and if anything further was necessary, the legislature have power to fix the punishment.

The motion did not prevail.

Section 8. The person, houses, papers

and possessions of every individual shall be secure from unreasonable searches and seizures; and no warrant to search any place, or to seize any person or things shall issue without describing them, nor without probable cause, supported by oath or affirmation.

Mr. N. PIERCE moved to insert, after the word "papers," the word "property."

Mr. HANSCOM—The word "possessions" covers the meaning of the word "property." Motion lost.

Mr. HANSCOM proposed to amend by striking out the word "unreasonable," and by adding after the word "seizures," "except pursuant to authority of law."

Mr. H. said he offered the amendment by reason of the fact that in other States, and in our own State, the word "unreasonable" has had different constructions. From the very character of the word used, it being liable to various constructions, there is no use in retaining it. The term "except pursuant to authority of law," is more legal in its form and more adapted to the adjudication of courts.

Mr. BACKUS said he would suggest that perhaps there might be difficulty, and much doubt grow out of the use of the words proposed to be inserted by the member from Oakland. The bill of rights is intended as a declaration of abstract principles of fundamental rights, never intended to be parted with by the people to any of the departments of government, legislative, executive or judicial. He asked if it would not be much better to retain the present word "unreasonable," which has a definite legal significance, and free from any of the doubts the words proposed to be inserted would introduce. Would the member propose to authorize the unlimited exercise of power by the legislature to enact laws which should warrant the arbitrary and unreasonable seizure and arrest of any person at the mere will of the legislature? If so, we had better at once sanction, in clear words, a despotism, and abandon a constitutional government. Suppose the legislature by law makes provision for seizures and arrests in a manner conflicting with other parts of the Constitution, could there be no arrests or seizures, until such provisions were made as were in conformity with the Constitution,

we had better leave an old and well defined term alone.

Mr. HANSCOM was opposed to incorporating in the bill of rights, or any article of the Constitution, those undefinable terms, such as "excessive bail," "unusual punishments," &c. It seemed to him to involve absurdity on its face; it was a species of verbiage without any real or beneficial effect on the action of courts. All those terms which have no meaning, or vary from day to day, are unnecessary, and improper to be incorporated in the Constitution.

The question was taken on the amendment and lost.

Section 9. The right of trial by jury shall remain inviolate; but a jury trial may be waived by the parties in all cases, in manner to be prescribed by law; and the legislature may authorize trial by jury of a less number than twelve men in all courts.

Mr. McLEOD moved to strike out all after the word "law."

Mr. McL. said the first line guarantees the inviolability of trial by jury. The last clause gives a dangerous power to the legislature to negative that right.

If the institution of trial by jury be valuable, it is not proper to leave it to the discretion of the legislature. He (Mr. McL.) considered it dangerous so to do.

Mr. CHURCH should vote against the proposed amendment. He thought the legislature should have the power to prescribe a less number than twelve as a jury in civil cases. If the gentleman would confine it to criminal cases, he would go with him.

Mr. McLEOD—I will accept the proposition.

Mr. McCLELLAND moved to strike out the words "all courts," and insert "inferior courts." He was opposed to a less number in the circuit courts.

Mr. KINGSLEY would ask the gentleman if he called the county court an inferior court.

Mr. McCLELLAND—We are going to abolish the county courts.

Mr. WITHERELL would inquire what was understood by inferior courts. All courts are inferior to the supreme court. The supreme court he hoped would have

power to order trials at bar in important cases. It may be construed a justice's court; but it would be better to use some more definite term than "inferior courts."

Mr. McCLELLAND—We do not know what courts will be established by the Constitution. When the courts are established by the Constitution, we can alter the verbiage. At present the best word we can adopt is "inferior." It is merely to answer present purposes.

Mr. McLEOD—I suppose the distinction will be made in more definite terms when the courts are established. In the present case some of our courts are superior in some cases and inferior in others.

Mr. WITHERELL suggested the words "other than courts of record," which Mr. McLEOD accepted; and the section was amended by striking out "and," in the second line, and inserting "but," and adding at the end of the section "not of record."

Mr. WALKER moved further to amend by striking out "all," in third line, and by adding after "record," "and in civil causes in all courts."

Mr. VAN VALKENBURG—It appeared to him a contradiction in terms, to say "all courts not of record," and then go on and say "in all courts."

Before the question was taken, the committee rose, reported progress and asked leave to sit again.

On motion of Mr. Church,

Resolved, That when this Convention adjourns, it adjourn to meet to-morrow morning at 8 o'clock.

On motion of Mr. GARDINER, the Convention adjourned.

TUESDAY, (8th day,) June 11th.

The Convention was called to order at half past 8 o'clock.

Prayer by the Rev. Mr. SANFORD.

REPORTS.

Mr. McCLELLAND, from the committee on the legislative department, presented the following report.

ARTICLE —.

Legislative Department.

1. The legislative power shall be vested in a Senate and House of Representatives.

2. The number of Representatives shall never be less than sixty-four, nor more than one hundred, and shall be chosen for two years, and by single districts; the Senate shall consist of thirty-two members, and the Senators, two from each district, shall be elected for four years.

3. The Legislature shall provide by law for an enumeration of the inhabitants of this State in the year eighteen hundred and fifty-five, and at the end of every ten years thereafter; and at the first session after each enumeration so made, and also after each enumeration made by the authority of the United States, the Legislature shall apportion anew the Representatives and Senators among the several counties and districts according to the number of white inhabitants; which apportionment shall remain unaltered until the return of another enumeration.

4. The judge of probate, register, sheriff, clerk and treasurer of the county, in such counties as may be entitled to more than one member of the House of Representatives, shall assemble at such time and place as the Legislature shall prescribe, and divide their respective counties into representative districts, equal to the number of representatives to which such counties may severally be entitled by law, and shall cause to be filed in the offices of the Secretary of State and the clerks of their respective counties, a description of such representative district, specifying the number of each district, and the population thereof, according to the last preceding enumeration, as near as can be ascertained. Each representative district shall contain as nearly as may be an equal number of white inhabitants, and shall consist of convenient and contiguous territory; but no township shall be divided in the formation of representative districts.

5. At the first session of the Legislature, elected in conformity with this constitution, the Senators shall be divided by lot from their respective districts into two equal classes; the seats of the Senators of the first class shall be vacated at the expiration of the second year, and of the second class at the expiration of the fourth year, so that one-half thereof shall be chosen biennially thereafter. No county shall be divided in the formation of senatorial districts.

6. Senators and Representatives shall be citizens of the United States, and be qualified electors in the respective counties and districts which they represent; and a removal from their respective counties or districts shall be deemed a vacation of their seats.

7. No person holding any office under the United States, or this State, (post masters, notaries public, and officers of militia and of townships excepted,) shall be eligible to or have a seat in either house of the Legislature.

8. Senators and Representatives shall, in all cases, except treason, felony or breach of the peace, be privileged from arrest; nor shall they be subject to any civil process during the session of the Legislature, nor for fifteen days next before the commencement and after the termination of each session; and for any speech in either House, they shall not be questioned in any other place.

9. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as each house may provide.

10. Each house shall choose its own officers, and shall determine the rules of its proceedings, and judge of the qualifications, elections and returns of its own members; and may, with the concurrence of two-thirds of all the members elected, expel a member; but no member shall be expelled a second time for the same cause, nor for any cause known to his constituents antecedent to his election; and the reason for such expulsion shall be entered upon the journal, with the names of the members voting on the question.

11. Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the request of one-fifth of the members present, be entered on the journal. Any member of either house shall have liberty to dissent from and protest against any act or resolution which he may think injurious to the public or an individual, and have the reason of his dissent entered on the journal.

12. In all elections by either or both

houses, the votes shall be given *viva voce*; and all votes on nominations made to the Senate shall be taken by yeas and nays, and published with the journal of its proceedings.

13. The doors of each house shall be open, except when the public welfare shall require secrecy. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than where the Legislature may then be in session.

14. Any bill may originate in either house of the Legislature.

15. Every bill passed by the Legislature shall, before it becomes a law, be presented to the Governor; if he approves it, he shall sign it; but if not, he shall return it with his objections to that house in which it originated, who shall enter the objections at large upon their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of all the members present agree to pass the bill, it shall be sent, with the objections, to the other house, by whom it shall likewise be reconsidered; and if approved also by two-thirds of all the members present in that house, it shall become a law; but in such case, the vote of both houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journals of each house respectively; and if any bill be not returned by the Governor within ten days, Sundays excepted, after it has been presented to him, the same shall become a law, in like manner as if he had signed it; unless the Legislature, by their adjournment, prevent its return; in which case it shall not become a law. But the Governor may approve and sign, and file in the office of the Secretary of State, within five days after the adjournment of the two houses, any act passed during the last five days of the session, in which case it shall become a law.

16. Every resolution to which the concurrence of the Senate or House of Representatives may be necessary, except in cases of adjournment, shall be presented to the Governor, and before the same shall take effect, shall be proceeded upon in the same manner as in the case of a bill.

17. The members of the Legislature shall receive for their services three dollars

a day, for actual attendance, unless absent from sickness, for the first sixty days of the session of 1851, and for the first forty days of every subsequent session, and nothing more. When convened in extra session by the Governor, they shall receive three dollars a day for the first twenty days, and no more; and shall legislate on no other subjects than those expressly stated in the Governor's proclamation. They shall also receive ten cents for every mile they shall actually travel in going to or returning from their places of meeting, on the usually traveled route; and for stationery and newspapers not exceeding five dollars for each member during any session.

18. The legislature may provide by law for the payment of all mailable matter received by the members, Lieutenant Governor and Speaker, but not for any sent or mailed by them.

19. The President of the Senate and the Speaker of the House of Representatives, shall, in virtue of their offices, receive an additional compensation equal to one-third of the per diem allowance of members; but the President *pro tempore* of the Senate shall receive no additional compensation, except when the Lieutenant Governor shall not be paid for officiating as President of the Senate.

20. No member of the Legislature shall receive any civil appointment within this State, or to the Senate of the United States, from the Governor, the Governor and Senate, from the Legislature or any other state authority, during the term for which he shall have been elected; and all such appointments, and all votes given for any such member for any such office or appointment, shall be void; nor shall any member of the Legislature be interested, either directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the time for which he shall have been elected, or during one year after the expiration thereof.

21. The Governor shall issue writs of election to fill such vacancies as may occur in the Senate and House of Representatives.

22. All bills and joint resolutions shall be read three times in each house before the final passage thereof; and no bill or joint resolution shall become a law without the concurrence of a majority of all the

members elect in each house; and on the final passage of all bills, the vote shall be by ayes and noes, and shall be entered on the journal.

23. Every law shall embrace but one object, which shall be expressed in its title; and no public act shall take effect or be in force until the expiration of ninety days from the end of the session at which the same may be passed, unless, in case of emergency, the Legislature, by a two-thirds vote of each house, shall otherwise direct.

24. The Legislature shall never grant or authorize extra compensation to any public officer, agent, servant or contractor, after the service shall have been rendered or the contract entered into.

25. The Legislature shall provide by law that the fuel and stationery furnished for the use of the State, the printing and binding the laws and journals, and all other printing ordered by the Legislature, shall be let by contract to the lowest bidder or bidders, who shall give adequate and satisfactory security; and it shall not be competent for the Legislature to rescind or alter such contract, or to release the person or persons taking the same, or his or their sureties from the performance of any of the conditions of the contract; and no member of the Legislature, or other officer of the state, shall be interested, either directly or indirectly, in any such contract.

26. The Legislature shall have power to exclude from the privilege of voting and being elected to office, any person convicted of bribery, forgery, or other infamous crime.

27. The Legislature shall have no power to authorize, by private or special law, the sale of any lands or other real estate belonging in whole or in part to any individual or individuals.

28. It shall be competent for either house to elect a chaplain, who shall receive for his services two dollars a day.

29. No law shall be revised or amended by reference to its title, but every act revised or section amended shall be re-enacted and published at length.

30. Divorces shall not be granted by the Legislature; and no lottery shall be authorized, nor shall the sale of lottery tickets be permitted.

31. No new bill shall be introduced into either house during the last three days of

the session, unless by the unanimous consent of the house in which it originates.

32. In case of contested elections, the person only shall receive per diem compensation or mileage, who is declared by the house in which the contest takes place to be entitled to a seat.

33. No person who may hereafter be a collector, or holder of public moneys, shall have a seat in either house of the Legislature, or be eligible to any office of trust or profit under this State, until he shall have accounted for and paid into the treasury all sums for which he may be liable.

34. The Legislature shall not audit or allow any private claim or account, but shall provide for their reference to a board of auditors or other tribunal, for adjudication and allowance.

35. Whenever the Legislature fixes upon the day of adjournment, they shall adjourn at 12 o'clock at noon of that day.

36. The Legislature shall meet on the first Monday in January next, and every two years thereafter, and at no other period, unless as provided by this constitution.

37. The elections of Senators and Representatives, pursuant to the provisions of this constitution, shall be held on the Tuesday succeeding the first Monday of November in the year 1851, and every two years thereafter.

38. The style of the laws of this state shall be, "The People of the State of Michigan enact."

Mr. McCLELLAND said it had been his intention to explain the reasons that had governed the committee in the various modifications proposed—but an unexpected occurrence called him home, and he could only present the report this morning.

Mr. WITHERELL thought this a very important report. He moved that five hundred extra copies be printed.

Mr. WALKER suggested four hundred and eighty. They had learned something yesterday about printing.

Mr. COOK suggested double the usual number.

It was accepted by the mover, but the motion was lost.

Mr. BAGG, from a majority of the same committee, to whom was referred the resolution of the 8th inst., directing an inquiry into the expediency of inserting a

clause in the constitution authorizing the sale of ardent spirits without license, &c., submitted the following report, to be an additional section to the article reported by Mr. McCLELLAND:

39. The Legislature shall have no power to pass any act to grant any license for the sale of ardent spirits or other intoxicating liquors as a drink or beverage.

Mr. B. stated that the committee had thought proper not to incorporate that section in the article already reported, as the committee had been unanimous in adopting it, but to make a separate report of the matter. In adopting the report which he submitted, the committee stood seven to one. The reports were ordered printed and referred to the committee of the whole.

Mr. SULLIVAN, from the committee on impeachments and removals from office, reported

ARTICLE —.

Impeachments and removals from office.

1. The House of Representatives shall have the sole power of impeaching civil officers of the State, for corrupt conduct in office, or for crimes and misdemeanors; but a majority of all the members elected shall be necessary to direct an impeachment.

2. All impeachments shall be tried by the Senate. When the Governor or Lieutenant Governor shall be tried, the Chief Justice of the Supreme Court shall preside. Before the trial of an impeachment, the members of the court shall take an oath or affirmation, truly and impartially to try and determine the charge in question according to the evidence; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in case of impeachment shall not extend further than removal from office, but the party convicted shall be liable to indictment and punishment according to law.

3. The House of Representatives shall elect from their own body three members, whose duty it shall be to prosecute impeachments. No impeachment shall be tried until the Legislature shall have adjourned *sine die*; when the Senate shall proceed to try such impeachment.

4. No judicial officer shall exercise his office after he shall have been impeached, until he shall be acquitted.

5. The Executive may make a provisional appointment to fill the vacancy occasioned by the suspension of an officer, until he shall have been acquitted, or until after the election and qualification of a successor.

6. For any reasonable cause, which shall not be sufficient ground for the impeachment of the judges of any of the courts, the Governor shall remove any of them on an address of two-thirds of each branch of the Legislature; but the cause or causes for which such removal may be required, shall be stated at length in the address.

7. The Legislature shall provide by law for the removal of justices of the peace, and other county, township and school district officers, in such manner and for such cause as to them shall seem just and proper.

Referred to committee of the whole and ordered printed.

RESOLUTIONS.

The following resolutions were adopted:
On motion of Mr. EATON,

Resolved, That the committee on finance and taxation be instructed to inquire into the propriety of engrafting the following provision in the constitution: "that all bonds, mortgages, judgments, and all other evidences of debt which are liens on real estate, shall not be taxed as personal property, and that all real estate shall be taxed to the owner or occupant at its fair value, and that any person or persons owning or holding any bond, mortgage, judgment, or any other evidence of indebtedness which are liens on real estate, shall be liable to the person or persons to whom the same shall have been taxed for his, her or their proportion of said tax, in proportion to the interest he, she or they may have held or owned in such real estate.

Mr. EATON offered the resolution from a knowledge of the fact that the law, as it now stands, operated unequally and unjustly. Taxes were paid on real estate in many cases by the person having, in fact, but a small interest in the land, while persons holding liens to a large amount on the same property escaped taxation. He wished them to bear the taxes in proportion to the interest of each.

By Mr. SUTHERLAND:

Resolved, That the committee on impeachments and removals from office be

instructed to inquire into the expediency of providing for the trial and determination of impeachments and charges against officers, involving their removal, in some court of judicature.

By Mr. COMSTOCK:

Resolved, That the committee on the militia be instructed to inquire into the expediency of incorporating into the constitution of this State, a provision exempting from militia duty any inhabitant of this State, of any religious denomination whatever, who, from scruples of conscience, is averse to bearing arms, upon such condition as shall be prescribed by law.

Mr. WHITE offered the following:

Resolved, That the Auditor General of this State be, and he is hereby requested to furnish for the use of this Convention, a statement of the annual expenses of the State government since its organization. That such statement embrace a list of the State officers, the number of clerks and other persons employed by them respectively in each year, and the salary or compensation paid to each; also the annual expenditure of the several departments of government, Executive, Judicial and Legislative. That the Auditor General be requested to furnish to the Convention a statement of the annual amount of State tax apportioned to be paid by each county; the yearly amount of delinquent or unpaid taxes returned to the Auditor's office from the several counties, and showing the amount of the original tax levied, the amount of interest which accrued thereon, the amount of office fees and other contingent expenses, if any, charged to said tax, and the amount of taxes rejected, with interest, &c., which have been charged back to the respective counties in each year.

Mr. BUSH was of the opinion that all the information sought in the resolution could not be obtained; but if the Auditor General could furnish it in twenty days, he would have no objection to the resolution. He would suggest to the gentleman [Mr. WHITE,] to permit the resolution to lay on the table until it was ascertained whether the information could be had.

The resolution was laid on the table.

On motion of Mr. BACKUS,

Resolved, That the committee on towns and counties be instructed to inquire into the expediency of reporting a provision in

the constitution, that no county or counties, township or city, shall be liable for the expense of laying out or establishing any road or roads, authorized by special act of the Legislature.

On motion of Mr. FRALICK,

Resolved, That the committee on militia be instructed to inquire into the expediency of providing for the enrollment of all persons liable to military duty, and the abolition of militia trainings, except those of independent companies.

Mr. ORR offered the following:

Resolved, That the judiciary committee be requested to inquire into the expediency of reporting a constitutional provision dispensing with the present law on evidence, which now governs in our courts of justice.

Mr. WELLS asked that the resolution be read again. [It was read.] Ah! He understood it when first read to dispense with "all law and evidence."

The resolution was lost.

Mr. McLEOD offered the following:

Resolved, That the committee on the seat of government be instructed to report on to-morrow the permanent location of the capital at Lansing.

Mr. BAGG offered a substitute for the foregoing:

Resolved, That the committee on the location of the capital be instructed to report a distinct article in the constitution, to be referred to the people, locating the capital permanently at the city of Detroit.

Mr. KINGSLEY stated that the committee were ready to report. The report contained only three lines.

Laid on the table.

On motion of Mr. BURNS,

Resolved, That the committee on county offices and county government be instructed to inquire into the expediency of a constitutional provision, that no county seat shall be removed until the place to which it is proposed to be removed shall be fixed by law, and a majority of two-thirds of the voters of the county voting on the question have voted in favor of its removal.

On motion of Mr. CHURCH,

Resolved, That the daily sessions of the Convention shall commence at 8 o'clock A. M., until otherwise ordered.

Mr. EATON submitted the following:

Resolved, That when this Convention

adjourns, it adjourn to meet again at three o'clock this afternoon; and that it will hold afternoon sessions, commencing at 3 o'clock each day, until further ordered by the Convention.

Mr. J. D. PIERCE hoped the resolution would not be adopted. It would retard the progress of business, as the committees were engaged in the afternoons preparing their reports.

Mr. EATON thought the Convention might be engaged during the afternoon in considering the reports already made.

The resolution was laid on the table.

Mr. WOODMAN offered the following:

Whereas, The chairman of the committee on the punishment of crimes, [Mr. WITHERELL,] refuses to act as their chairman;

And whereas, No member of said committee feels at liberty to act as chairman; therefore,

Resolved, That the committee on the punishment of crimes be discharged.

Mr. W. said he offered the resolution that the Convention might know in what situation the committee was.

Mr. HANSCOM said the committee could go on and elect a chairman. That was the usual proceeding in such a case.

The resolution was not adopted.

On motion of Mr. BACKUS,

Resolved, That the committee on towns and counties be instructed to inquire into the expediency of reporting a provision in the constitution authorizing the erection of any city into a separate county government, without regard to the territorial extent of such county.

On motion of Mr. DANFORTH, the Convention resolved itself into committee of the whole on the Bill of Rights, Mr. BRITAIN in the chair.

JURIES.

Mr. WALKER'S amendment to section 9 being under consideration, it was modified by him so as to read as follows:

Amend section 9 by striking out all after the word "law," in second line, and inserting "but the legislature may authorize a trial by jury of a less number than twelve men for the trial of misdemeanors and civil cases."

Mr. GOODWIN moved to amend the amendment by adding at the end thereof, "in courts held by justices of the peace."

Mr. KINGSLEY offered the following substitute to section 9: "The trial by jury shall remain inviolate; but a party requiring a jury shall demand and pay for the same as the law shall provide; and the legislature may provide that a less number than twelve may constitute a jury."

Mr. K. said he would state his object in offering the substitute. By the section as it now reads, a jury must be had unless waived by the parties, and both parties would never waive the trial by a jury. When parties go to law, they are not disposed to accommodate each other—what one wants the other will not have, even if he wants it. He was willing a party should have a jury in all cases where he required it, but it would be no hardship to demand a jury, and pay for it such sum as the law may require.

If a party is required to call for a jury, and pay for it when he wants it, a jury will not be called for in one case in ten; and much less frequently would a jury of twelve men be called for, if it should be provided that a less number than twelve may constitute a jury. Experience has shown this, that trial by a jury of twelve men has lost its charm. The reason which made it so valuable in England in days gone by, do not exist here. There it was thought a great privilege for a party to be tried by his peers, to protect him against the oppression of the judge; in this country we are all peers; the judge is within our reach. He can be reached by the press, by public opinion, and above all, by the ballot box, which will restrain him from acts of injustice. When parties desire to settle their matters of difference amicably, by leaving it to a tribunal of their own choosing to decide, they know that three men are sufficient to do justice between them—they never choose five or seven, and much less twelve. Indeed, juries of twelve men are now more called for to defeat justice than to obtain it. In a bad case an attorney thinks he stands a better chance to succeed with a jury, and the larger the better. He would prefer twelve to six, and twenty four would be a still better number.

Mr. K. said he would not object to a jury in any case where a party required it to guard him against the oppression, partiality or ignorance of the judge, or when he thought his interest required it from any

cause; but it is not unreasonable to require a party to demand a jury if he wants it, and to pay for it so much as the law may require.

Mr. BEARDSLEY said he could not agree with the gentleman from Washtenaw. He was of the opinion that the right of trial by jury should not only remain inviolate, but be insured under all circumstances—that all cases, civil as well as criminal, should be tried by a jury, unless waived by both parties. The honest suitor, he thought, was always more sure of justice at the hands of a jury than those of a judge or justice. The opinion that law was a tissue of quibble prevailed to a great extent; and some justices of the peace seemed to believe that they possessed no equitable discretion, and consequently their decisions were often against both law and equity; for they misapprehended the one and rejected the other as inconsistent with their duties. He had known great injustice to be done in a late case, as he believed, by a justice's misapprehension of his duty. A plaintiff in a suit before him had the defendant sworn in order to make him a witness against himself, (the defendant,) but on reflection declined asking him a question. The court, however, allowed the defendant's counsel to examine him by way of cross examination, as to the accounts he claimed against the plaintiff, and as to the whole matter in controversy, and insisted that he was bound by law to receive the testimony of defendant as truth, against plaintiff, (even if he did not believe a word of it,) defendant having been sworn as a witness for the plaintiff; as he (Mr. B.) was informed, the justice admitted that he did not believe the testimony of the defendant, and indeed he could not; for it was too evidently untrue by its inconsistency; and besides, there was the positive and circumstantial evidence of some two or three unimpeachable witnesses against it.

Mr. B. said he alluded to this case merely to show that justices of the peace, sometimes at any rate, considered themselves bound down by a rule of law that militated against justice, and sometimes, too, mistake law. The sentiment that little or no equitable discretion belongs to a justice of the peace, (notwithstanding he acts in the double capacity of judge and juror,) he believed to be very prevalent.

In his county the justices were a very sensible and respectable body, and so far as he could judge, these officers were well chosen throughout the state; but it required some acquaintance with the principles of law to discriminate legally. The best lawyers, and even judges, met with difficulties, having resource to their libraries. Few justices of the peace had the opportunities of becoming acquainted with the principles of law; and if the idea that justice cannot be ordinarily certain through the medium of a single justice of the peace, and that ideal technicalities prevent such a result, be correct, then juries are necessary for the ends of justice.

Mr. CRARY—Mr. President, this section 9 may be understood, or not. I will explain. The first part of the clause is taken from the old constitution. The second part is from the constitution of the state of New York, and is in accordance with our present existing law. The third part is taken from the constitution of Iowa, with the exception of the words "all courts." The constitution of Iowa gives the right of a jury of a less number than twelve, only in inferior courts.

In changing our government from a territorial to a state form, we preserved the right of trial by jury inviolate. In consequence of that fact, a question has heretofore been raised whether a jury of six in a justices court, in civil causes, was constitutional. The clause now introduced removes all questions in regard to such a jury, and enables the legislature to authorize a jury of a less number than twelve, for the trial of criminal causes in justices' courts. Public convenience seems to require that the exercise of this discretion should be left to the legislature.

Mr. S. CLARK stated that the section was drawn as proposed by the member from Lenawee, Mr. TIFFANY. It was not in accordance with his own views.

Mr. GALE said if a less number than twelve was sufficient to try a cause in inferior courts, why not apply the rule to superior courts? Reasoning from analogy, it would seem to require the greater number in inferior courts, where there was supposed to be more ignorance, and not in the supreme courts where there was most learning.

Mr. HANSCOM moved that the section

(9) be passed over. He said it was important, and would probably lead to a lengthy debate.

The section was so passed.

Mr. S. CLARK then moved to amend section 10 by adding: "Nor shall any person be held to answer for a criminal offence, unless on the presentment or indictment of a grand jury, except in cases of impeachment, or in cases cognizable by justices of the peace, or arising in the army or militia when in actual service in time of war or public danger."

Mr. C said it would be seen upon an examination that the amendment proposed by him was section 11 of the old bill of rights, which the committee had stricken out. He did not propose, at this time, to assign all the reasons why he was opposed to striking out this provision—he would briefly state some few considerations by which he was governed.

One of the principal objections urged against the grand jury is the expense. This, sir, (said Mr. C.,) I consider not well founded. If gentlemen will reflect, they will find that by abolishing the grand jury, and throwing their duties into other hands, the expense must be vastly increased. In complaints made before the grand jury, bills are not found in more than one-half or one-third of the cases. Do away the grand jury, have your examinations before magistrates, and the expenses would double those now incurred; there would be three cases tried to one now. The bills of justices of the peace incurred in criminal business in the most populous counties are very large, and in the whole state amount to an enormous sum.

But there are other considerations more important. The good effect in the restraint of crime, the tendency to prevent offences, is above the question of expense. It is well known to every one, that an able charge to a grand jury, delivered in an impressive and solemn manner by a learned judge, has much weight and influence upon a community.

But, sir, there is great complaint in reference to the discharge of their duties by grand jurors. This may be the case in some instances,—it may be they are not properly selected—that unfaithful and incompetent persons are chosen—yet, it is

only an abuse of the system which may be corrected, and we have the power to correct it here. It can be done by electing the grand jurors in the townships, or by selecting the oldest justices; or we can resort to some other mode; and let us do so if the present mode does not work well.

I, sir, consider the proposition to abolish the grand jury far from being a reform, to be a dangerous innovation; and I call upon its advocates to answer how they will get over the difficulty, in reference to the crimes committed by persons residing on the borders of our state. What remedy do they propose to prevent the depredations of the gangs of horse thieves and counterfeiters committed upon citizens of the state? How are they to be reached? How brought to justice?

It is proposed to abolish the grand jury, so that no indictment can be found on which to base a requisition. By the constitution of the United States, a person charged with crime and fleeing from justice, shall, upon requisition, be delivered up to the authorities of the state from which he fled. And how charged? Is a simple affidavit, stating the defendant's belief that the accused is guilty, sufficient? or should the fact be positively charged, so that the executive authority may be sure an offence has been committed? I do not, sir, at this moment, recollect but two cases in which a requisition issued upon a simple affidavit; the one was the case of a bank officer in the state of Rhode Island, arrested in the state of New York, and held to be properly charged; the other the case of the prophet, Joe Smith, arrested in Illinois, and after a hearing before Judge Pope, upon the return to a writ of *habeas corpus*, he was discharged on the ground of the insufficiency of the affidavit on which the requisition was based.

What rule then is to be adopted in regard to the numerous class of cases to which I have alluded? They are beyond the jurisdiction of your state courts, and no positive evidence on which to base a requisition, and no way to obtain the requisite evidence except through the instrumentality of a grand jury.

But there is another and higher consideration why the proposed change should not be made. I would not entrust in the

hands of incompetent prosecuting attorneys this power. It would be taking away the rights of citizens and placing them at the mercy of one or two individuals—the right to have his case first investigated by a grand jury, requiring twelve of their number to find a bill, is guaranteed to every citizen—the very number of the grand jury being also a guaranty against bribery and malicious prosecutions. As I before stated, I consider the proposition to abrogate this right of the citizen, a hazardous and dangerous innovation.

But there is another consideration to be taken in view. Michigan will be the only state in the Union that has yet dared to venture on the experiment of abolishing the grand jury. She has not a single precedent to justify her in taking the step proposed. Connecticut has gone further than any other state in dispensing with a grand jury, confining its duty to the consideration of higher offences. I am not influenced by precedent, yet in the absence of reason, precedent should have due weight. For these reasons, I am entirely opposed to the proposition to dispense with grand juries.

Mr. SULLIVAN said that having had some experience in criminal proceedings, and being satisfied that the sentiment of his constituents was in favor of abolishing the institution of the grand jury, he would occupy the attention of the Convention for a few moments with some remarks on the subject.

Mr. S. said he was not, more than any other man, in favor of putting a person on trial, unless there was probable cause to believe him guilty. He would have no man tried for an aggravated crime, unless a complaint in writing, and under oath, had been made to a magistrate, and an opportunity given to the accused to defend himself. The magistrate should then proceed to hear the allegations and evidence on the part of the prosecution, and the accused; and if probable cause was found to believe him guilty, a certificate to that effect should be made to the prosecuting officer, which should form the basis of an information, to be filed against the accused.

This, said Mr. S., was the project he would propose as a substitute for a grand jury. He would commit no power or dis-

cretion, more than the prosecuting officer now possesses, into that officer's hands; who, as has been remarked, might be incompetent or dishonest. Let him be competent or incompetent, honest or dishonest, his only power would be what it now is—to draw up the accusation and conduct the trial.

The institution of a grand jury, as had been remarked, was an ancient one, and gave pomp and dignity to judicial proceedings. In this, the main difficulty of overthrowing it consisted. It was not easy to overcome our veneration for its antiquity, or our respect for the imposing forms connected with it. The imagination clung to it when the judgment had pronounced it worthless.

But, said Mr. S., the institution is an expensive one. A grand jury cannot be assembled from various quarters of a county, and remain in session for a few days even, without very serious expense. It had been remarked by the gentleman from Kalamazoo, [Mr. CLARK,] that the expense of proceedings, under the proposed system, would be equal to that of the present one. The facts must be otherwise; for in the first place, you have now, in a great majority of cases, to encounter the expense of both tribunals. When a man committed theft, or robbery, or murder, people did not wait for the session of the grand jury to arrest him. He was complained of, examined, bound over or committed to jail; and finally the case re-examined before the grand jury.

In the second place, said Mr. S., the evidence being introduced on both sides before a magistrate, the strong probability was, that under the proposed system, we should have to encounter the expense of trying a much smaller number of innocent men than under the other. A much smaller number of complaints would be made under the proposed system, than under the existing laws. Men went before the grand jury to make light and frivolous accusations, which they would not dare to make in the face of day. They went there to gratify their malevolence—to pull down the honest reputation of a neighbor. They thought they might perhaps convict—if they did not, the infamy of the accusation clung to him, and the accused never occupied the

same high platform in society as one who had never been suspected. Many complaints were therefore made, as had been remarked, which were not sustained; and most of them would never have been made before a magistrate.

It had been said that the accused might escape into a neighboring state, and could not be brought back—a requisition could not be obtained without the intervention of a grand jury. The case, said Mr. S., presented no difficulty. If a criminal escaped, the remedy was clearly marked out by the laws of the United States. No indictment was necessary—a requisition could be obtained on proper affidavit.

He was opposed to the institution because it was a secret one. It was an anomaly in judicial proceedings. The publicity of courts afforded the best guaranty of their purity. Because, if prejudice, or partiality, or corruption existed, the world would see the indications of it. But in the grand jury room, like the inquisitions of the star chamber, all was enveloped in darkness.

He was further opposed to the institution, because under it the accused could not expect an examination in conformity with the rules of law. He was examined by men, generally substantial and intelligent, but who did not possess, and had too much good sense to pretend to possess, a large amount of legal knowledge. Hearsay evidence, parol evidence of the contents of records, and other irregularities were naturally to be expected.

The grand jurors, said Mr. S., were selected almost at random from the mass of their fellow citizens; the magistrates were elected with a view to their knowledge of judicial affairs. Again, the proposed system was vastly better for the accused. He might confront his accusers and cross-examine witnesses; he had the means provided to enable him to prepare for trial. Circumstances that appeared dark and suspicious upon their face, he might, perhaps, be ready to explain.

Mr. S. appealed to the intelligence of members of the Convention, whether, if they should be accused of any infamous crime—and there was no man so elevated that he might not unjustly be suspected—whether they would prefer a secret *ex parte* examination, or choose to hear the testimo-

ny, cross-examine and sift it, explain it if possible, learn the mode of attack to be made upon him and prepare to meet it? Would any member wish the grand jury system applied to himself in such a case? If not, why did he wish to furnish it to others?

If there was any tendency in the grand jury system to rescue an innocent man from the disgrace of a public accusation, it would be something in its favor; but the fact is otherwise. There was no secrecy except the *modus operandi*, the particular mode of conducting the proceedings in the grand jury room; about results there was none. The grand jury were sworn to secrecy, but the witnesses were not, and the mis-called secrets of the grand jury room were blazoned to the accused and the world.

We have been, said Mr. S., solemnly warned that we were stepping upon dangerous ground—that we proposed a great innovation—that no other state had gone to this extent. An innovation it certainly is, but one which had recommended itself to the judgment of the most substantial and practical men of the state, and had found distinguished advocates in some of the principal legal periodicals of the land. We were told that in this measure, if it succeeded, we should take the lead. And why should Michigan shrink from taking the lead in a great measure of reform? She had occupied that position before. She was among the first to abolish imprisonment for debt: she was among the earliest to pass a homestead exemption law. Would she wish to blot these facts from the page of her history? No! they were and always would be regarded by her with satisfaction and pride. Abolish this institution, and instead of being a source of mortification and disgrace, he had no doubt that this also would be contemplated with just state pride.

Mr. J. D. PIERCE said: Mr. Chairman, I am decidedly in favor of abolishing the grand jury system, and I have no doubt the people of the state approve the measure. It is now a useless, burdensome institution. More men are blackened by it than are protected by its operation.

When first instituted it was of value. Then the king, by his fiat, could send the man to his creatures to be tried—to the dungeon, and to death. Then it was that

the grand jury came up, and placed itself between the monarch and the subject. To the latter it afforded some protection.

But the occasion which gave it birth has passed away. We have no king to frown—to send a man to his court to be tried and executed. Besides, sir, the grand jury is a burdensome, useless expenditure—it is a waste of time and money, and there is no advantage resulting from this institution at all commensurate with its cost. The great purpose of it can be better obtained without than with its continuance. It is wholly *ex parte* in its action, and often works great injustice. A neighborhood quarrel is kept alive, and brooded over until the grand jury is convened, and then, perchance, the originator and perpetrator of the wrong may go forward and swear his neighbor under indictment.

The grand jury, sir, is more of the nature of an inquisition than any other institution of our country. The system is at war with the fundamental principles of liberty—that every person charged shall be at liberty to confront the witnesses. In the grand jury room this is denied. I go, therefore, for abolishing the system—for cutting it up, root and branch, trunk, twig and leaf.

Mr. HANSCOM said: Mr. Chairman, I have listened with much surprise to the proposition to abolish the institution of the grand jury; and the arguments adduced in support of the proposed innovation upon the administration of criminal law, are, to me, of a most novel and extraordinary character.

I had supposed, sir, that the design and effect of a grand jury was to subserve the ends of public justice—to secure the prompt, efficient, impartial and independent administration of the laws of the land, and at the same time to guard the rights of the citizen and secure him against unfounded accusation. But we are gravely told by gentlemen on this floor, and even by the gentleman from Calhoun, [Mr. J. D. PIERCE,] that grand juries are engines of oppression, and tend to outrage private rights—create unnecessary expense, and hinder and delay the punishment of crime. Such arguments, coming from a gentleman of his extensive reading and general intelligence, could only be listened to with astonishment. I had supposed, sir, that grand juries were one of the shields thrown around the citizen

to guard his life, liberty or property, upon the one hand; and upon the other, to insure the arrest, prosecution and punishment of real violators of the law. Such, sir, has been the opinion of mankind for centuries—such was the design of the Barons of England, when, sword in hand, they wrested from an arbitrary and tyrannical British monarch the great charter of British liberty. Sir, its objects and its effects, like the *habeas corpus* act, were to secure the citizen against the tyranny of the government; and the experience of centuries in England, and in our own country, has fully demonstrated the fact, that in its operations it has not only fully met the objects of its original creation, but has conducted, in an eminent degree, to prevent the commission of crime, as well as to insure the punishment of offenders.

But, sir, it is urged by gentlemen that it creates unnecessary expense. I, for one, do not believe it. Experience and observation convince me that in points of economy it is preferable, far preferable, to any plan proposed in its stead. Once abolish grand juries, and every conceivable case has to undergo a legal investigation and trial before a committing or examining magistrate, before the party charged can be put upon a final trial before a traverse jury. Grand juries obviate, to a great extent, such an evil; as it is only in the most aggravated cases, or when there is danger of the party charged escaping, that complaints are made and examinations had; and, sir, it will take but a few criminal examinations where counsel are employed, and witnesses called, and contests had, to create an amount of expense greater than is incurred by the entire sitting of a grand jury. Take any of the more populous counties of our state as an illustration. From twenty to fifty indictments may be found at a single term, and that term not extend beyond three or four days. In view of the meeting of this body no complaints have been made—no expense incurred, no criminal examinations had.

But, sir, there are considerations connected with this subject far more important than that of mere economy,—public security, the protection of the private citizen, the additional safeguard thrown around him, and the actual punishment of the real offender against the laws. Suppose, sir,

an offence of the greatest magnitude is committed, and the offender goes beyond your jurisdiction—escapes to another state or a foreign government; what will you substitute for the indictment of a grand jury upon which you would predicate a requisition from your Executive upon the authorities of the foreign jurisdiction, to bring back the offender for trial and punishment?

But, sir, it is charged that the tribunal is a secret one, and that by its existence it is placed in the power of a vindictive and unscrupulous enemy to procure the indictment of the innocent. Such cases may have occurred, and doubtless have; but, I venture to say, not successfully occurred as often as have prosecutions of such a character before examining magistrates. As a general rule, the men composing our grand juries are possessed of sufficient intelligence and integrity to detect and counteract the designs of the malignant prosecutor or complainant. But, sir, is the substitute proposed (and the only one) free from still more serious—yes, ten fold more serious objections? A single magistrate, and he perhaps leagued in feeling and design with this vindictive complainant perhaps ignorant as well as knavish, binds over or commits the innocent citizen for trial. The public prosecutor has no discretion—the case must go to a court of record for trial, and the party charged is subjected to all the consequences that would follow an indictment found by a jury of his fellow citizens.

Mr. Chairman, I look upon this attempt to abrogate this time honored institution as a most dangerous innovation; and I am fearful that the consummation would be fraught with most evil consequences; and until something is proposed in lieu of it—some plan by which the great ends designed to be accomplished by grand juries, can be attained—I shall oppose their abrogation.

It is not unlikely that evils have grown up in connection with their organization that call for a correction; and none will be more ready than myself to aid in ridding the system of what is bad, and throwing every guard around it that shall be calculated to guard against abuses and prevent the possibility of negligence, as ap-

plied to the government, or of injustice towards the citizen.

Mr. H. moved to pass over the section, so that after the committee should report the article back to the Convention, he would move to recommit it to the committee with instructions so to amend the 9th section as to confer power on the legislature to provide by law for the trial of civil causes by a less number than twelve; and to authorize a jury of a less number than twelve in courts not of record, and for the trial of misdemeanors, in any court, by a number less than twelve.

Also, so to arrange the 10th and 11th sections, either by the substitution of an additional section, or otherwise, as to provide for indictments and presentment by grand juries in all cases where the offence charged would be punishable by imprisonment in the penitentiary.

Mr. CHURCH opposed the proposition. He believed the opinions of members had been matured on the subject, and they were ready then to vote on the question. If there was any one subject on which they agreed, it was not to sanction the present grand jury system.

Mr. J. D. PIERCE thought the question had as well be met then. There was no object in recommitting, or passing it by.

Mr. S. CLARK enquired to what committee it was proposed to recommit.

Mr. HANSCOM—The committee on the Bill of Rights.

Mr. S. CLARK said it would be useless, except under special instructions.

Mr. HANSCOM withdrew his motion.

The question was then taken on Mr. CLARK's amendment, and lost.

Mr. SUTHERLAND then moved to amend as follows:

Sec. 10. Line 3. Amend by striking out the words "and in all civil cases in which personal liberty may be involved, the trial by jury shall not be refused."

Mr. S. said that section 9 preserved the right of trial by jury inviolate, and if so, the words he proposed to strike from section 10, were mere surplusage.

The motion to strike out was lost.

Mr. TIFFANY moved to amend section 10, line 2, by striking out "to be confronted with the witnesses against him."

Mr. S. CLARK said, that proposition was before the committee. They consi-

dered it highly important that a party should have the privilege of confronting the witnesses. It was to get rid of the loose and dangerous way of taking depositions, which must grow out of the amendment. If a party were subjected to inconveniences, they were inconveniences in behalf of liberty.

The amendment was lost.

Mr. HASCALL moved to amend by adding at the end of the section, "nor shall any person be called to answer for any criminal offence on the presentment or indictment of any secret or *ex parte* tribunal."

Mr. CHURCH remarked that in the case of a fugitive from justice, the proceedings against him must necessarily be *ex parte*.

Mr. MORRISON, to avoid that difficulty, moved to amend the amendment by excepting the cases of fugitives from justice.

Mr. CRARY said he was not prepared at that time to vote for or against the proposition. By the vote already taken, the grand jury system was not abolished. All that had been decided was that future legislation should not be tied down by constitutional provisions. Under the constitution, as it now stood, the system had been cumbersome and expensive. It required the grand jury to have cognizance of too many offences.

By the action of the committee thus far, the question was left open to future legislation. If the committee wished to go further, all that was necessary was to introduce a naked proposition to abolish the grand jury. They might proceed without hesitation to do so, if such were the will of the people.

The institution had been called ancient and venerable. This was not so in its present form; and there was no institution so ancient, or so venerable, but he was ready to raze it to the ground, if upon careful examination it was found to be useless.

Action thus far had been safe—it was left to future legislation to abolish the system, or regulate it to meet the wants of the age and the demands of our institutions. If, however, the Convention wished to abolish, they could safely do so. It had been done to a great extent in some of the other states, and could be done in this, if the public sentiment is prepared for it. In all their action they should look around

and see what their own wants demanded, and not go to other states for a rule of action, which would be totally inapplicable to the condition of the State.

The amendment was withdrawn by Mr. HASCALL, when

Mr. SULLIVAN moved to amend section 10, by adding the words "the institution of the grand jury is hereby abolished."

Mr. McLEOD said he wished to make an experiment. He moved the committee rise, report progress and ask leave to sit again. Lost.

Mr. COOK moved to pass the section over. He wished to have further time to consider the matter, as it was of vast importance.

Several other members having expressed a desire to have time to consider the subject, section 10 was passed, and section 11 taken up.

Mr. CRARY moved to amend by striking out of line 1, all after the word "person," to and including the word "punishment," and inserting, "after acquittal, shall be tried for the same offence."

Mr. C. said he considered the language used in the section indefinite, and his amendment merely proposed language more definite and better understood.

The amendment offered by Mr. CRARY drew out some discussion as to the construction placed by the courts on the phrase "twice put in jeopardy;" when

Mr. J. BARTOW moved to amend the amendment by adding after the word "acquittal," the words "upon the merits."

On motion of Mr. DANIELS, the committee rose, reported progress and obtained leave to sit again.

The Convention then adjourned.

WEDNESDAY, (9th day,) June 12.

The Convention met at 8 o'clock A. M., and was called to order by the President.

Prayer by the Rev. Mr. TOOKER.

Roll called, and members all present except Messrs. McCLELLAND and WHIPPLE, absent on leave.

The journal was approved.

REPORTS.

Mr. REDFIELD, from the committee on State officers, except the Executive, reported the following:

ARTICLE —.
Of State Officers.

1. There shall be a Secretary of State, Superintendent of Public Instruction, a State Treasurer, who shall be ex-officio Commissioner of the Land Office, an Auditor General, and an Attorney General, elected at each biennial general election, who shall hold their respective offices for the term of two years, and shall perform such duties as may be prescribed by law.

2. The terms of office of the incumbents to be elected under the foregoing provisions, shall commence on the first day of January, 1852, and of every second year thereafter.

3. Whenever a vacancy shall occur in any of the above mentioned State offices, the Governor (by and with the advice and consent of the Senate, if in session,) shall fill the same by a temporary appointment, to continue until the office can be supplied by an election, at such time and in such manner as shall be provided for by law.

4. The Secretary of State, State Treasurer and Auditor General shall keep their offices at the seat of government, and shall constitute a Board of State Auditors, for the examination and adjustment of all claims against the State, not otherwise provided for by law, or specially referred by the Legislature to some other tribunal. And shall also constitute a Board of State Canvassers, for determining the result of all elections for Governor, Lieutenant Governor, Judges and State Officers, and of such other elections as shall by law be referred to said board.

5. In all cases of two or more persons having an equal and the highest number of votes for any office, as canvassed by the Board of State Canvassers, the two Houses of the Legislature, in joint convention, shall choose one of said persons to fill such office; and in all cases where the determination of the Board of State Canvassers shall be contested, the two Houses, in joint convention, shall direct which person shall be deemed to have been duly elected.

6. Three inspectors of the State Prison shall be elected at the general election which shall be held next after the adoption of this Constitution, one of whom shall hold his office for two years, one for four

years, and one for six years. The Board of State Canvassers shall, on the first Monday in January next succeeding such general election, meet at the Capitol and determine by lot which of said inspectors shall hold his office for two years, which for four years, and which for six years. And there shall be one elected at each general election thereafter, who shall hold his office for two years.

The article was read a first and second time by its title, and referred to the committee of the whole and ordered printed.

Mr. KINGSLEY, from the committee on the seat of government, submitted the following:

ARTICLE —.
Of the Seat of Government.

The seat of government of the State shall be in the township of Lansing in the county of Ingham, where it is now located.

And the same was read the first and second time by its title, and referred to the committee of the whole.

RESOLUTIONS.

On motion of Mr. BEARDSLEY,

Resolved, That the committee on the judiciary department be instructed to inquire into the expediency of prohibiting appeals and certioraris, and of providing for new trials instead thereof; and also as to the propriety of making a second verdict or judgment in favor of a party final and irreversible in all cases.

On motion of Mr. CORNELL,

Resolved, That the committee on townships be instructed to inquire into the expediency of abolishing the offices of assessor, commissioners of highways, and directors of the poor; and empowering the Legislature to provide for the election of a supervisor, township clerk, and treasurer, who shall, together with the oldest justice of the peace, constitute the township board and board of elections, and who shall perform such other duties as shall be prescribed by law.

On motion of Mr. WELLS,

Resolved, That the committee on education be instructed to inquire into the propriety of reporting a constitutional amendment which shall forever prevent the Legislature from enacting any law relating to the university and school lands, unless such law is general in its application and effect.

On motion of Mr. MORRISON,

Resolved, That the committee on the elective franchise be instructed to inquire into the expediency of incorporating in the Constitution the following provision: "that for the purpose of voting, no person shall be deemed to have gained or lost a residence during his attendance as a student of any seminary of learning."

On motion of Mr. COOK, the Convention then resolved itself into committee of the whole, and resumed the consideration of "Article 1, Bill of Rights," Mr. BRITAIN in the chair.

Section 11 was then read—No person, for the same offence, shall be twice put in jeopardy of punishment. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offences, when the proof is evident or the presumption great, and the writ of *habeas corpus* shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require it.

The CHAIR—The question is on the amendment, by Mr. BARTOW, to the amendment of the gentleman from Calhoun, [Mr. CRARY.] The original section you have heard. The gentleman from Calhoun moves to strike out "for the same offence shall be twice put in jeopardy of punishment," and insert, "after acquittal for the same offence." To that amendment the gentleman from Genesee moves the following: After "acquittal," insert the words "upon the merits."

Mr. BARTOW, of Genesee—It seems to me that the amendment to the amendment is proper. The original words have a definite and well understood meaning, and cover all the ground assumed by the gentleman from Calhoun. If the amendment to the amendment is lost, we shall incur the charge of essentially changing the laws. It will permit a criminal to escape upon a mere technicality. We do not wish to make a law that should have this tendency. If the amendment to the amendment is adopted, we shall show to our courts that a mere technicality will not shield a criminal from a second trial.

Mr. FRALICK—I consider the language of the section, as it was reported, as nearly right. It is the language of the Constitution of the United States and of

a large majority of the different States. We understand what it means. It has obtained a legal construction. It is what we want, as it conveys exactly our meaning. Now, by putting in new language, I care not how plain we may make it, it will not be settled until there has been adjudication upon it. People cannot tell what adjudication will be made upon any particular set of words, and as we know what this means why should we alter it? I therefore hope that the section will remain as it is.

The amendment to the amendment was adopted.

Mr. WALKER—I believe that the original section, as expressed in the bill, is more explicit, and has a better settled meaning than the amendment.

Mr. ROBERTSON—If we adopt this amendment, it will be necessary to prove whether the case was tried upon the merits or not. Suppose that it was not a good indictment; that neither the Prosecuting Attorney, nor the court, nor the jury saw that there was any technical defect in the indictment, how shall it be known afterwards whether the case was tried upon its merits or not? By calling in counsel, or the bystanders, to show how the case was decided? And can this be called an improvement; or that it mends a matter that was before clear, by leaving it thus undefined and unascertained, as all would say the testimony of witnesses in such cases would be? Calling again the jury; having in effect a trial within a trial, to see whether the merits were really canvassed upon the former trial? And shall we change a well known rule of law for such a vague course? Is any thing gained by it? A gentleman said they are words not understood by the masses. I will at any rate vouch for the knowledge in that respect of the masses of Macomb. And, sir, it cannot be true, that in this age of progression, we should so far have retrograded as not to understand the use of a simple word in the English language? Where is the gentleman who will tell me that the word "acquittal" is better, or more easily understood, than the word in the original section? And sir, I was astonished, in the debate yesterday, to hear gentlemen use in explanation, the words used by the committee. They said by "acquittal," they meant that a person should not

be tried again; that he should not be put again in jeopardy. Surely, sir, a word used as an explanation cannot be so hard to be understood as an original. It speaks very little in favor of the masses, to suppose that the use of a simple English word is a mystery; and there is surely intelligence to follow out the long, well settled construction which is found in our courts. You may simplify, until by that very attempt, probably, you introduce new rules. It seems to me, therefore, that the amendment ought not to prevail.

Mr. J. D. PIERCE—I would ask the gentleman from Macomb one question: If it has been so simple, so plain, why has it been necessary to have any adjudication upon the subject?

Mr. BEARDSLEY—I am opposed to the amendment as it now stands, with the amendment to the amendment engrafted. After a man is acquitted, unless we uproot fundamental principles, we cannot ask the courts to reverse their verdict. And I trust that this Convention will not uproot laws that are respected even under tyrannical governments. When an individual has been once tried, that he shall never again be put upon trial for the same offence, is a principle in all laws; and it is a pity, while we are boasting of our progressive freedom, that we should enact any law that would tend to perpetuate oppression. If it is so simple and plain, as the gentleman from Macomb remarks, why was it necessary to adjudicate upon it? And, if it required a legal explanation, then it cannot be plain to the people.

Now, sir, I think that every thing that we do, all the language that we use, should be so plain, that the man who runs may read. As the amendment to the amendment stands, I shall vote against it, but am in favor of the original amendment.

Mr. SULLIVAN—I understand it to be conceded that the language of the amendment does not differ materially from the language of the original, and the only object proposed is, to introduce language that will be more distinctly understood.

Now, it being conceded that these two terms are precisely of the same signification, how can difficulty arise about parol testimony? It is idle to say that this language is clear and definite, when we

have a multitude of decisions to give explanations and meanings.

We know that the meaning of the words has been questioned by the ablest lawyers of the land. No complaint is more common than that language is employed that is unintelligible, when other terms might easily be found that would obviate the difficulty. It is to meet this complaint that this amendment is proposed, and on that ground I shall support it.

Mr. ROBERTSON—I would explain, that there has been no difficulty at any time with the lawyers, the clergy or laymen, with respect to the meaning of the original clause as reported.

What is "put in jeopardy?" It has been decided that a person was only put in jeopardy when the indictment under which he was tried was a good and valid indictment. If this amendment were adopted, would there not be the same necessity for adjudication on the words used there? It might defeat the end of justice. One man would construe it as meaning one thing, and another, another. An indictment might be quashed on the quibble of an officer, and the criminal might go unwhipped of justice. The construction of the meaning of the words used in the original is settled, but the new will have to be settled by a course of decisions.

Mr. CRARY said he had heard a great number of speeches on the amendment proposed. He wished a statement of the exceptions where a person is not put in jeopardy by being tried by a jury. He called on the gentlemen who opposed the amendment to name these exceptions. When named, they would show that the amendment was proper, and was at the same time expressed in words that all could understand. It was said that the old phraseology was easy to be understood, and yet so late as the year 1824, the Supreme Court of the United States had been called on to make a decision on the subject. After having two or three more decisions, all might be informed what it was to be twice put in jeopardy.

Several of the new constitutions had laid aside the old phraseology. He named among the number, Rhode Island, New Jersey and Iowa. Others retained the language, and as it was used in the constitu-

tion of the United States. He preferred the language of the amendment, and hoped it would be adopted. He, however, wanted the explanation of the delegate from Macomb [Mr. ROBERTSON] of the words "twice put in jeopardy," and he would take his seat for the purpose of hearing it.

Mr. HANSCOM called for a division of the question.

The motion to strike out prevailed.

The question to insert was carried.

Mr. LOVELL moved to strike out "capital offences" and insert "murder and treason."

The amendment was carried.

Mr. ROBERTSON—I would suggest that the words "writ of *habeas corpus*," in the third line, are obscure. I am satisfied the masses are unable to understand them, and wish some gentleman to explain them, as I feel incompetent to throw out any suggestions myself.

Mr. SKINNER moved that section eleven be amended by adding after the word "merits," the following: "Provided, however, that no acquittal or conviction on his own complaint, or at his instance, shall be a bar to a second trial and conviction for the same offence."

Mr. HANSCOM—The original section, with the many amendments, is so obscure that we cannot understand it.

Mr. SKINNER—I do not know that the phraseology is correct. My object was merely to prevent a sham trial. An offence is committed, and the criminal instigates a mock trial against himself—a small fine is imposed, perhaps, for a grave offence, and thus the ends of justice are defeated.

Mr. WITHERELL—There would have been no occasion to amend had the section stood as it did originally, because the word "jeopardy" covered the whole ground, and adjudications have been made upon it. We shall, by the method we are pursuing, require new adjudications upon new subjects. The courts have decided, again and again, that no prosecution upon a complaint of an individual himself, or at his instigation, will excuse him from an indictment for the offence. It may be necessary now to introduce it, as the amendments have been carried.

The amendment was lost.

Section 12. Every person has a right to bear arms for the defence of himself and the State.

Mr. BAGG moved to insert the word "white" between the words "every" and "person."

Mr. B. said—I move the amendment simply because I wish, so far as our sable population is concerned, under the operation of our laws, to keep them in their present sphere. I would extend to them benefits and charity, &c., &c., but I would not let them come into our civil, political, social, conjugal or connubial relations.

Mr. WILLIAMS—I would like to put one question. I know in Kalamazoo a native born citizen, a man of large possessions, who is a black man. Would you not put the means of self-defence in that man's hands? If a gang of kidnappers were to come into the State, would you deprive that man of the means of defending his home, his children and his property?

Mr. BAGG—There may be isolated cases of individuals to whom I would extend more liberality than to others, but must go on general principles, which are so extensive that I should have to forego them, as they cannot adapt themselves to isolated cases. This is a general principle which I look to. Colored people, negroes and Indians should not be allowed to bear arms with us. It will be made a pretext with them to get into other circles. I am for keeping them where they are, believing them to be a species at least one link beneath us. The moment you let them into the political circle, you open the social and every other circle. I trust the Convention will never leave out the word "white" in the organic law.

Mr. BUSH would ask the gentleman from Wayne if this was a new feature in the constitution.

Mr. CORNELL—This would take away his natural rights, the right of self-defence, which has never been given up.

Mr. McLEOD—There is an old Latin maxim, "*satis est leoni prostrasse*," which, translated, signifies it is quite sufficient for the lion to have conquered. He goes no further—he does not insult. This unfortunate class of people are thrown almost out of the protection of our laws. They are named with contumely and reproach.

They are not permitted to exercise the franchises which those who are distinguished from them by the mere accident of color exercise. It is sufficient that we, in our power, go thus far, without going still further and adding insult.

I know many, both among the Indians and negroes, who, in point of intelligence, virtue and personal appearance, in all that elevates the man above the brute, are at least equal to the delegate from Wayne, [Mr. BAGG.]

Mr. CROUSE would suggest the propriety of amending by striking out the word "person," and inserting the word "citizen."

Mr. WILLIAMS would ask the gentleman from Livingston [Mr. CROUSE] if he would not allow the women to defend themselves.

The amendment offered by Mr. BAGG did not prevail.

Mr. BAGG moved to strike out the words "and the State." In that article it would incorporate the colored population with our white citizens. He was opposed to obliging them to do military duty, and thus insinuate themselves among us.

The amendment was negatived.

Sec. 13. The military shall, in all cases, and at all times, be in strict subordination to the civil power.

Sec. 14. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner prescribed by law.

Mr. S. CLARK moved to amend by inserting after the word "owner," the words "or occupant."

Mr. WITHERELL was opposed to the amendment, because it was unnecessary. It is always understood that the person occupying a house, so far as that is concerned, is the owner.

Mr. S. CLARK would leave out the necessity of such a construction, by making the language clear and explicit.

The motion prevailed.

Sec. 15 read.

Sec. 16. No bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, shall be passed.

Mr. BUTTERFIELD moved to amend by adding after the word "contracts," the words "or their remedies."

Mr. B. said he believed it was well

understood that the Legislature had, from time to time, passed acts that have effected the remedies relating to contracts.

The remedy, if not the obligation of contracts, is effected if the Legislature shall pass any act changing the time of payment, and making the act applicable to existing contracts. The Legislature have, at different times, passed exemption and stay laws that have operated retrospectively; and the time of redemption upon mortgage sales has been repeatedly changed, and he [Mr. B.] believed the courts had decided that the law applied as well to mortgages existing at the time of the passage of the act, as to those subsequently executed. He proposed that any alteration in the laws relating to the collection of debts, as in any way effecting contracts, should have a prospective effect. Otherwise, where is the safety of the parties to a contract, if the Legislature shall be permitted to step in and say that any part of the remedy may be changed. The remedy should be as sacred as the obligation of the contract itself; and yet, our Legislatures have acted upon the principle, that if the obligation of a contract remained the same, they were at liberty to make any change in the remedy that their wisdom or interest might dictate. He [Mr. B.] wished by this amendment to prevent such vacillating legislation in future.

The amendment did not prevail.

Mr. BUSH proposed to amend by inserting after the word "contract," "or retrospective exemption law."

Mr. WITHERELL did not know how far that language would extend; whether beyond the 16th section or not; and whether it would not require some adjudication as to the meaning of "exemption." It is not a term known to our ancient laws.

Mr. BACKUS had no doubt but some such provision as that intimated, would be extremely desirable, to render plain the position the Legislature holds in relation to contracts or remedies; but the one passed upon, and the one before the Convention, must be subject to serious objections. No doubt the present construction of the article contained in the Bill of Rights in our constitution, as well as similar provisions in the constitutions of other States, and the constitution of the United States, is,

that it comes within the purview and scope of the constitution of the United States, that the several Legislatures shall not have the power to impair the obligation of contracts. The Supreme Court holds that it is a part of the constitution of the United States.

That our constitution should declare something of the kind, is necessary. Although the Legislature might pass such laws, the courts could not give them effect so as to impair the remedy of a contract made under a given law. The proposition under consideration appeared subject to some objections. If modified, he [Mr. B.] would cheerfully go for it.

Mr. BUSH—My attention was drawn to the subject by the amendment which was voted down. I sent up the resolution merely that this Convention might establish the principle, and in some way cover the views which I wish to express. It is true, sir, that the supreme court has established a principle with regard to retrospective laws; but what has been the action of the Legislature of Michigan? Have not such laws been passed from time to time? The exemption law of 1842 was retrospective. Since that time, even the remedy which was reserved for the creditors has been taken away. The character of the legislation of the State has been contrary to the decisions of the Supreme Court of the United States. And my object in introducing this resolution is, that I wish it to be distinctly understood that if such laws are passed, they are passed right in the face of the constitution; and I want this pointed out so clearly that none can mistake.

Mr. WITHERELL—I think the language of the original section is not sufficiently explicit. In the first place, it says "no bill of attainder." Well, what is a bill of attainder? It was a power which the British parliament possessed, by which by an act, they could seize and hang a man—probably draw and quarter him—without any trial at all—without a hearing, even, if he was beyond the seas. Well, what is an *ex post facto* law? If there were no judicial interpretations, we should naturally say that it applied to all contracts. But the courts of judicatory will say that it merely means that none shall be punished as a criminal, for acts which the law has

previously held to be innocent, without such change being made before the commission of the act. So with the word "exemption;" that likewise has not a fixed judicial meaning. I think the object of the gentleman would be obtained without the use of any words that would be productive of litigation. When the remedy enters into a part of the contract, the Legislature has not the power to interfere, under the constitution of the United States. If we do not go as far, or equal to the provisions of the constitution of the United States, it will be of no use, as grounds will always be taken upon the highest authority; but we may go farther, and properly so, in favor of our own citizens, provided we do not run counter to the constitution of the United States.

Mr. FRALICK—I agree with my colleague, that it might create some difficulty. People like me, not learned in the law, might have supposed that the remedy to enforce a contract was a part of the contract itself; at any rate, I would like to know what is the use of setting forth an obligation, if there is no remedy? If a man agrees to pay me a certain sum for a certain thing done, if I have no remedy, or cannot use the remedy, or the Legislature steps in and takes away the remedy, is not the obligation of the contract taken away? The Legislature of 1842 passed an act taking away the remedy; that is, they said that the laws enforcing execution previous to that year should not be enforced; and probably many persons on this floor could testify to that fact to their great injury. Now, if this Convention is going to sanction this doctrine, we ought to know it. I think, sir, that the passage of this law caused the people of this State to be held up as a by-word and a reproach. We were told we were not to be trusted. We agreed to do a certain thing, and after we had got their property, we did not pay them for it. If we are to have exemptions, why let it be so; but let every contract be fulfilled as it was made. If it is thought best to let the Legislature change the remedy, let us so state it, but do not let us use language that may tend to deceive.

Mr. WARDEN moved to insert after the word "contract," in section 16, "and no law altering or changing any law ex-

empting property from levy or sale on execution, having retrospective action."

The question being taken on Mr. WARREN's amendment, the motion to insert was lost.

Mr. BUTTERFIELD offered the following substitute for section 16:

"No bill of attainder, *ex-post facto* law, either civil or criminal, shall be passed, nor any law impairing the obligation of a contract, or the remedy existing at the time such contract shall be made."

Mr. HANSCOM moved to strike out "bill of attainder." As far as any practical purpose was concerned, we might just as well enact that the Council of Ten of Venice, should not govern us, or that the ear of Juggernaut should not drive up to the capitol. He did not press the motion, but merely mentioned it on the principle that the declaration of the Bill of Rights should be as simple as possible.

The motion was lost.

Mr. GOODWIN said that before disposing of the question, it would be proper to refer to the state of judicial decisions relating to it.

Under the clause of the constitution of the United States prohibiting State Legislatures from passing laws impairing the obligations of contracts, the Supreme Court of the United States had some time since made two decisions bearing upon it.

One was the case of a law of Illinois in relation to mortgages, extending the time of redemption, and declared to be invalid with respect to pre-existing mortgages.

In the other—the appraisement laws as they are called; laws prohibiting the sale of property on execution when a certain appraised value was not reached—were declared within the provisions, and invalid with respect to previous contracts.

Soon after a case came before our Supreme Court in respect to our exemption laws, which it was urged were involved under that provision and for similar reasons. The Supreme Court of the United States had, in some of the opinions delivered, used language to the effect that State exemption laws were not within the prohibition; and our court did not feel bound to carry out the principle of reasoning of the court beyond the limit prescribed by themselves, and held the exemption laws valid

in respect to contracts entered into previous to their passage, and not within the prohibition.

Soon after, the same question came before the Supreme Court of the State of New York, and that court, carrying out the reasoning of the U. S. Supreme Court, held such laws within the prohibition, and as to previous contracts, unconstitutional.

So that the decisions of the courts of New York and of this State are opposed to each other, on this point, and it has been thought best, so I am informed, to present the matter directly to the Supreme Court of the United States for its decision.

As this is an important question, it may be proper for the Convention to settle the point now; and perhaps it can as well be done in the Article before us as in any other way.

Mr. TIFFANY—There are many cases in which it is necessary that the legislature should have the power to pass retroactive laws, and there are cases in which it would not be so. I therefore concur with the gentleman from Wayne, that we should know specifically how far the constitution is to prohibit the legislature from passing retrospective laws.

Mr. WALKER—It seems to me that the amendment now offered would lead to endless difficulty, and does not assert a correct principle. I believe, sir, that we should not stop here, but should look at both sides of the question. Gentlemen talk about the rights of the creditor; but is the creditor only to be protected? Has the debtor no claim upon us; and do you not impair that claim by the passage of any more stringent collection law? I see no reason for putting this guard on the one hand, and not on the other. The laws specifying the time that execution shall be stayed, we cannot change, without leaving all the laws in operation under which contracts were made. This would introduce confusion in the administration. It ties up the hands of the legislature, if it does not give the same benefit to the debtor as the creditor. I rather prefer the amendment of the gentleman from Ingham, than that of the gentleman from Wayne; but the better place to insert it would be in the provision relating to the exemption of property from execution. It would give it a more definite meaning. It is better to pass it now,

so as to incorporate it in the provisions of that bill.

Mr. J. D. PIERCE—Mr. Chairman, of what importance is it to take care of the debtor? He is of no consequence. The gentleman from Wayne avows it to be his object, by his amendment, to take away all power of action by the legislature in this matter, so that they shall pass no law which shall effect the remedy of the creditor against the debtor. But he is disposed to allow the legislature to pass laws still more stringent against the debtor; to draw the cord still tighter. Such, sir, has been the legislation of ages, upon the principle of government taking care of the rich, and the rich taking care of the poor. Sir, look to Ireland; there the rich have been taking care of the poor for centuries, and they are taking care of them yet. So, in Great Britain; there too, the rich have been taking care of the poor for generations, and they are yet doing it; and so the old world over. The rich are taking care of the poor, and the great mass of the legislation of ages gone by has been for the express purpose of providing laws and means to enable the rich to do it most effectually. And they have succeeded to admiration. But, sir, what is a contract? Is it not a voluntary matter between parties?—Why, then, should the State step in when the relation is formed, and put its whole power into the hands of one of the parties, to crush the other? Where is the right, the justice? And, because there has been some little legislation within some few years past, in favor of the man and his family, in favor of humanity, to protect the debtor class against the all selfishness of the other, what a hue and cry! If gentlemen want more stringent collection laws, and if such laws are evidence of high civilization or refinement, let them go back to the old Roman code. That contained laws tolerably stringent, which were in operation 427 years, and were a part of the Twelve Tables for 120 years. That code provided that when the debtor failed to pay, his creditors might cut him to pieces, each of them taking a share proportioned to his demand; and there, sir, you have your scales of justice.

Mr. WITHERELL—I do not suppose that any one here wishes to make a more stringent law. In former times, and I be-

lieve in the present day, amongst our Canadian friends, they put them in the "black hole" until they pay. But about the old law of Rome, this 427 years, I do not know any thing about it.

Mr. PIERCE—Go to the law of the Twelve Tables.

Mr. WITHERELL—The law of the Twelve Tables, was it? Well, cutting a man up on the Guinea scale, might do in California; it will not do here. The amendment of my friend from Wayne operates equally well upon both sides.

Mr. REDFIELD—I was in the legislature, and voted for these relief laws that have been under discussion, and I look back to it with pleasure. I find that the laws have been universally approved, and I now think if any thing of the kind is embraced in the constitution, it will be the main cause of its rejection by the people. I am confident that any thing tending to restrict any contingency that might arise would be unfavorably received.

Mr. FRALICK—I understand that this is to settle a principle—that is, whether we wish to live up to our contracts or have the privilege of referring to the legislature of the State, after getting other peoples' property, to shelter us from paying for it as we agreed.

The gentleman from Cass considers it a credit to the State to pass laws having retrospective action; in other words, that we may be allowed, under one set of laws, to get other peoples' property, then apply to the legislature, and get those laws changed so that it is impossible for the creditor to get his own. Now, sir, I, for one, do not consider such a course of conduct creditable to the State. But if we are to have a homestead exemption—a large personal exemption—let that then be the order of the day. But I do want the principle fixed that no remedy shall be impaired; that when a contract is made, that contract shall be enforced, and the people of the State will not ask, at least they ought not to ask, for any thing different.

Mr. VAN VALKENBURG—I trust that no restrictions will be put upon the legislature upon this subject. It appears to me the gentleman from Wayne misapprehends our meaning. It is not for the purpose of breaking contracts, but for the purpose of protecting the poor honest man

from undue severity on the part of his creditors—for the purpose of preventing any Shylock from exacting the pound of flesh. And, sir, I wish for no restriction, because I believe with the gentleman from Cass, that the laws alluded to that were passed for the relief of the people met with general approbation. We want, if a similar contingency should arise, to have a similar power of protecting the people, that the honest man who has toiled for a little pittance shall not have wrested by a hard hearted creditor the means of supporting his family.

Mr. BUSH—I have never exacted the pound of flesh. I seldom, if ever, enforce the law; but in forming a constitution for the government of the legislature and the people, and defining the original laws of the land, we should have principles, and have them clearly expressed. It is not, sir, whether 100 or \$1000 should be exempt from execution; but that legislation should be uniform. Our principles should be clear, and such that the Supreme Court, when it makes its decisions, will concur in. I learn from our presiding officer that the Supreme Court of the State of New-York and the Supreme Court of the State of Michigan differ in their decisions about the constitutionality of exemption laws. What a view does this present, when learned judicial tribunals differ! Does it not show the necessity of simplifying our principles of government, so that all can understand? And when we have done that, we have done what the people ask. I care not whether the people accept or reject this constitution. It is not for me to inquire what the action of the people will be. It is for me to do my duty. That duty is to protect each man in his person and property, and that should be clearly understood, and not left to a vague uncertainty. If the principle is pushed to its extreme verge, an equal distribution of property throughout the land, I shall still be in as good a position as the gentleman from Cass. But let us do justice, though the heavens should fall!

Mr. BUTTERFIELD—It is said that the object of the proposed amendment was to prevent legislation for the benefit of the poor man. I disclaim any such intention. I believe the effect of the amendment is that the rights of all, whether rich or poor, shall be equally protected;

that the poor man, entering into a contract, shall have all the benefit of the laws which he knows to exist at the time he entered into such contract.

Gentlemen have said they were members of the Legislature when certain laws were passed, and felt happy to rejoice over that fact. How many a poor man's farm was mortgaged under the law giving two year's redemption after sale, who finds that the Legislature has seen fit to change the time of redemption from two years to one? Is this legislating for the benefit of the poor man? If so, gentlemen are welcome to all the glory to be obtained therefrom. The principle involved in the different amendments and the substitute proposed, is simply this: shall the people of this State hereafter have the privilege of making contracts in accordance with existing laws, and enforcing these contracts according to those laws, without a subsequent Legislature having the power to alter, materially, the nature of the remedy? And in this the poor man is equally interested with the rich. All classes are interested alike in having a permanent system of legislation. I am utterly opposed to any legislation for the benefit of a class. The rights of all should be equally respected, by making the remedy as sacred as the obligation of a contract, of which it is a part.

Mr. VAN VALKENBURG—I suppose that we came here to represent the interests of our constituents, not our own views and feelings. We are bound to consider the voice of the masses. I hold that we are the servants of the public. I hold to the doctrine of instruction; and we should endeavor to incorporate in our acts what we know to be public sentiment.

Another sentiment that I have heard about the constitution of the State of New York. Sir, I am a native of the State of New York, and I refer to her with pride, but it is not proper that the talent and intellect of this State should be made to follow the State of New York. The State of Michigan has advanced ahead of the State of New York in many respects. We may appeal to our own courts and our own decisions with pride; and, I doubt not, we shall have a constitution that will compare well with the constitution of the State of New York.

I hope that the Legislature will not be

restricted; that they will be at liberty to protect the laboring man from the oppression of a hard-hearted creditor.

The CHAIR—The question now is upon striking out section 16, and taking up the substitute of the gentleman from Jackson, that "no bill of attainder, or *ex post facto* law, either civil or criminal, shall be passed, nor any law impairing the obligation of a contract, or the remedy existing at the time such contract shall be made."

A division of the question being called for, the committee refused to strike out section 16.

Section 17 being under consideration,

On motion of Mr. WITHERELL, it was amended by striking out "and unjust," and inserting "or unusual."

On motion of Mr. WILLIAMS, section 18 was amended by adding at the end thereof: "private roads may be opened in the manner to be prescribed by law; but in every case the necessities of the road, and the amount of all damage to be sustained by the opening thereof, shall be first determined by a jury of freeholders, and such amount, together with the expenses of the proceeding, shall be paid by the person or persons to be benefitted."

Mr. WITHERELL moved to amend section 18 by adding after "for," in the first line, "the use of the State or of any corporation;" and by adding after "therefor," the words "previously made therefor or tendered."

Which was not adopted.

Mr. TIFFANY moved to amend as follows: add at the end of section 18, "first paid or tendered, or otherwise disposed of, as shall be prescribed by law, for the benefit of the persons whose property shall be intended to be taken, except when to be appropriated for the benefit of municipal corporations, for common roads, or the State."

Which motion was lost.

On motion of Mr. HANSCOM, the last vote was reconsidered, and the question being on the amendment of Mr. TIFFANY,

Mr. WITHERELL moved to amend the amendment by adding after "therefor," in first line, "nor for the use of any corporation without compensation previously made or tendered."

Pending which, on motion of Mr.

STOREY, the committee rose, reported progress, and asked leave to sit again.

The committee, through their chairman, reported the article back to the Convention, and asked and obtained leave to sit again.

On motion of Mr. STOREY, the Convention then adjourned.

THURSDAY, (10th day,) June 13.

Prayer by the Rev. Mr. ATTERBURY.

PETITIONS.

By Mr. P. R. ADAMS: of JOHN CRAWFORD and 108 others, of Lenawee county, relative to the management of the State Prison. Referred.

By Mr. TOWN: of John MABBS and 26 others, praying that the word "white" be dispensed with in the revised constitution. Referred.

REPORTS.

Mr. RAYNALE, from the committee to invite the resident clergy of this village to attend alternately and open the sessions by prayer, reported that they had performed that duty in part, and that the Rev. Mr. ATTERBURY, Mr. SANFORD and Mr. TOOKER have been in attendance. And the Rev. Mr. ATTERBURY has directed the committee to say to the convention that he declines any remuneration in the manner proposed.

The report was accepted and the committee continued.

On motion of Mr. COOK,

The convention then resolved itself into committee of the whole, and resumed the consideration of Article 1, "Bill of Rights," Mr. BRITAIN in the chair.

The CHAIR stated that the question was on the amendment offered by the delegate from Wayne, [Mr. WITHERELL,] to the amendment offered by the delegate from Lenawee, [Mr. TIFFANY,] to the 18th section.

Mr. TIFFANY corrected his original proposition so that it should read: add at the end of the original section, "first paid or tendered or otherwise disposed of under provisions of law."

The question being on the amendment to the amendment offered by Mr. WITHERELL, by adding after the word "therefor," in first line, "nor for the use of any corporation, without compensation previously made or tendered."

Mr. W. said: The amendment offered by the gentleman from Lenawee might cover the ground; if so, a good and valuable purpose would be answered. The State would be left as it now stands under the present constitution. By the amendment proposed, payment for the property would be required from corporations previous to taking possession. He believed the State would always be ready to meet its engagements. With respect to roads, he saw no necessity for any provision. The public roads do not belong to corporations, but to the State. There has never been any difficulty about them, as the law now stands.

Mr. TIFFANY—Under the article reported by the committee, private property may be taken for public purposes, whether paid for before or after. His proposition was that it should not be taken without previous payment, except in the case of common roads. It had been urged against its adoption, that it might be found inconvenient in any case of emergency, such as a state of war. But in time of war they would most probably act independent of all law.

Mr. WHIPPLE did not perceive the necessity for adopting the amendment to the amendment. If he understood the amendment correctly, it proposes that no corporation shall take private property, except in certain cases. In his opinion, the section reported by the committee was all that was necessary for the security of private rights. It is to be borne in mind that it is not within the constitutional authority of the legislature to authorize any and every corporation to appropriate private property to their use. It is only where private property is to be appropriated to *public* use, that the high sovereign power in question can be legitimately exercised. It is not competent for the legislature to authorize mere *private* corporations to appropriate the private property of the citizen to its use. The distinction between a *public* and *private* corporation, and a *public* and *private* use, must be steadily kept in view, in considering the question before us. To illustrate the distinction, I will state a case: The legislative authority of the late Territory, incorporated the Detroit and Pontiac Railroad Company, and authorized them to enter upon and appropriate private property, when necessary for the construc-

tion of the road. A question has arisen in the Supreme Court, whether such authority to appropriate private property, was lawfully conferred. The determination of that question will depend upon the fact, whether the corporation is public or private. If, by the terms of their charter, the company are bound to transport persons and property over their road upon payment of a reasonable toll, then the *use* becomes *public*, and the authority to appropriate private property was properly exercised. On the contrary, should it turn out that there exists no legal obligation on the part of the company to transport persons and property, on payment of a reasonable toll, then the *use* is *private*, and the grant nugatory and void.

I see no propriety in adopting the amendment of the delegate from Wayne; nor do I altogether like that proposed by the delegate from Lenawee. The first branch of the amendment I think desirable, but the latter branch, I think quite unnecessary. We fulfill our whole duty, when we direct that adequate compensation be made before private property can be appropriated to public use. The article under discussion should assert general principles, and not go too much into detail.

Mr. TIFFANY—The objection is to that part of the amendment referring to some provision to be made by law. I thank the gentleman for calling my attention to it. My object is, that provision may be made in the case of minors or persons residing out of the State. You cannot pay or tender payment to them. To meet those cases, I would insert the clause.

Mr. WHIPPLE—The object is a good one, but it is not necessary to insert this provision. The law describes to whom payment shall be made in such cases. I dislike this detail to go with the constitution. I want the article to assert general and fundamental principles, without going into petty detail.

Mr. TIFFANY said it appeared to him to be a necessary provision for cases which have not been provided for, in cases of guardians and minors, where it might be difficult to pay or tender payment.

Mr. CORNELL—We are come here to frame a constitution, and not to legislate; to deliberate upon fundamental principles, and not details. I would ask whether the

article does not cover the whole ground? A provision is made for payment in the section reported by the committee. Unless it is actually paid, is there any compensation? The legislature will carry out the provision.

Mr. WITHERELL—There is much good sense in the remark made by the gentleman from Jackson, in regard to the construction of the section as reported. Yet the courts in the State of New York have decided differently. Now, sir, there is a constant leaning to precedents to guide their decisions; and notwithstanding the opinion of my friend, [Mr. WHIPPLE,] in his judicial capacity, yet his good sense may be overcome. The courts in New York have decided that they may take possession; and if they can take possession, they may keep possession for one, fifty, or a hundred years. If they may take possession, what is the use of the provision? A railroad may cut up a man's farm—may take it without payment. They may take it and keep it, and leave the persons whose property they have taken, to get the money as they can, a mortgage, perhaps, being held on the road by a foreign company, for more than the road is worth. In such a case, an individual may be compelled to sacrifice some of his rights, or subject himself to expenses in obtaining justice, equal in amount to the money he may ultimately receive. He [Mr. W.] was opposed to allowing those corporations to take property, without making payment before taking possession.

Mr. TIFFANY withdrew the clause in his amendment, "otherwise disposed of," &c.

The CHAIR—The question is on the amendment to the amendment.

Mr. WITHERELL withdrew the amendment to the amendment.

Mr. TIFFANY again modified his amendment.

Mr. J. D. PIERCE moved to strike out all after the word "tendered." Mr. P. said the law would provide for the contingencies which the gentleman from Lenawee had suggested.

Mr. WALKER would inquire whether it was in order—if it was competent for the committee to strike out any amendment that has been concurred in by the Convention? The amendment offered by Mr.

WILLIAMS had been deliberately adopted by the Convention, and it appeared to him that it could not be taken out, except by reconsideration of the vote by which it was adopted.

Mr. STURGIS—Being interested in a new county, he was disposed to sustain the amendment of the gentleman from Lenawee. Without such an amendment, it would be extremely difficult to get a road through the new counties, where the lands are held by non-residents. It would be difficult to ascertain who the owners were.

The amendment proposed by Mr. J. D. PIERCE was negatived.

The question being on the adoption of the amendment offered by Mr. TIFFANY, to add to section 18, "payment to be first made or tendered, except when to be appropriated for public highways,"

Mr. HANSCOM said, by the proposed amendment, public highways are excepted from the provisions of the section. It might become a question, whether you might not allow private property to be taken for common roads without compensation.

Mr. COOK—The amendment appeared to him likely to prevent the construction of railroads and plank roads through non-resident lands. It may be impossible to find the owner. Some provision of this kind would be necessary: Add "first paid or tendered, or deposited with the county treasurer, for the benefit of the owner, under such regulations as may be prescribed by law." He would therefore move to amend by inserting after the word "therefor," "being first paid or tendered in such manner as the legislature may provide."

Mr. CORNELL—Nothing that had been said convinced him that the section, as reported, was defective. One amendment seems to call for another to explain it. This going into detail belongs to the legislature. He apprehended wisdom would not perish with this convention. It appeared to him better to adopt the section as reported by the committee, leaving details to the subsequent action of the legislature. The section covered the ground so far as it was necessary to go.

Mr. EATON concurred with the gentleman from Jackson, [Mr. CORNELL.] He thought the language of the section plain enough. It was said that in the State of

New-York the courts had given a construction to a similar provision, that private property might be taken for public uses without compensation being first made, or payment tendered; but if courts of justice put this construction on such language, there is no language the convention could adopt which they could not as easily pervert. It seemed to him the language reported was as plain as possible. That corporations had taken property without compensation was true, but it had been done in violation of law and of the constitution.

Mr. FRALICK rose to offer a substitute to come in at the end of the section as printed; to add, "and for the use of no corporation without payment being first made or tendered, or deposited with the county treasurer under provisions according to law." Mr. F. said: public roads are left as they now are. A provision is made for private roads. This will provide for cases in relation to corporations.

The CHAIR—The question in order is on the amendment sent to the chair by the delegate from Hillsdale.

Mr. BUTTERFIELD concurred in the views expressed by the gentleman from Wayne. The amendment proposed by the gentleman from Calhoun, [Mr. J. D. PIERCE,] was best adapted to meet the case. He would mention a case which had occurred in his neighborhood, where great injustice had been done by the constitution, as it stands, or the construction put upon it. It was a case where minor heirs held real estate. A road was desired across their farm, which had been materially injured by the previous construction of roads. An appeal was taken; no one being able effectually to represent those heirs, a very insufficient sum was awarded for damages. But what is more, the damages so awarded have not been paid. It may be said the law provides a remedy. But does it so, indeed? Does it provide a remedy, when they have to go to a court of law, and be under the necessity of expending one moiety of the money awarded for damages in recovering it? It is said the supervisors may assess for the damages awarded; but they have not done so. Intentional or unintentional, those heirs have been wronged under the law as it now stands.

He saw no material difference between

townships and corporations. Whatever the construction of the courts in this State may be, the practice is the same as under the construction of the courts in the State of New York. Shall we require those heirs to expend the whole of the money awarded for damages in obtaining a decision of the courts on the construction of the clause of the constitution?

Mr. B. concluded by expressing his conviction that no injustice could be done to townships, cities or corporations, by saying if private property is required by them, payment shall be previously made or tendered.

Mr. SUTHERLAND—I would remark on the subject under consideration, that whatever might be the opinions of our judges, the practice in this State very nearly agrees with the views taken by the Supreme Court in New York; as remarked by the gentleman from Jackson, the practice, sir, is the same, whatever views we may entertain as to the construction of the laws and the constitution. Every expression given by the Legislature in their enactments on this subject, tends to sustain the same doctrine. Chapter 25, section 8 of the Revised States, authorizes roads to be laid through lands belonging to individuals, leaving the owners to make application for damages; which application, if not made within a limited time, the right to be compensated shall be forfeited. So they can make roads through any man's farm, and he must lose his property, without compensation, unless he makes an effort to obtain it.

Mr. WILLIAMS—That law has been repealed.

Mr. SUTHERLAND—It has been altered—it has been modified, so that if they take land under improvement they shall first pay for it. If it were the principle established in the constitution, was it necessary to provide for previous payment in one case? It admits it might be so taken without such provision. Do not the provisions of law go to show that the constitution is understood here as in New York? The practice of legislation tends to this decision. Frequent changes are made in the laws, but every modification tends to support the view of that construction.

Mr. VAN VALKENBURGH—The clause reported by the committee covers

the whole ground. It is not the object for which the delegates have assembled in Convention, to legislate, to enter into details—but to establish fundamental principles. All that was required was accomplished in the report of the committee. If the courts of New York had made a decision contrary to common sense, he [Mr. Van V.] hoped the Convention would not be influenced by it.

Mr. WOODMAN was desirous of coming to a vote on the question. Much time had been spent in debate, and much more might be occupied by gentlemen, but he believed they would fail to enlighten the Convention. The proposed amendment to the original section was all that was necessary to perfect it; it met his views and he was ready to vote on it.

Mr. BAGG would vote against the amendment and substitute. He was in favor of having simple propositions—one article embracing one proposition. There appeared to him to be too much disposition to legislate in the convention, which he was afraid would prolong the session.

Mr. COMSTOCK—With the amendment added, the rights of non-resident land holders would be protected and public interests secured.

Mr. BACKUS would suggest whether the gentleman's object would not be attained by striking out all the provisions relating to the county treasury, and inserting, "to be first paid or tendered, or otherwise disposed of by provisions of law;" whether he would not attain the same end by less verbiage.

There will arise a difficulty under the terms made use of in the bill of rights; but some terms must be made use of to guard against the evils which have been justly complained of; to guard against the abuse of the powers given to corporations; to secure individuals from being harrassed when presenting claims for compensation. Provisions have been heretofore made for laying out roads and constructing canals and railroads. They have also provided for compensation to individuals for property taken for such use; but how? Some by a jury—some by commissioners. But who sets that in motion? It is the very difficulty that should be provided for, and the humble citizen protected in the enjoyment of his property, or full compensation

made, and that promptly, when his property is required for public use. Such was the end proposed by our laws, but in practice it is not carried out. They go on and take possession, leaving the humble citizen to pursue, through juries and commissioners, till he finds himself brought up in the Supreme Court, after spending all that he is entitled to receive in obtaining justice. The provision should be so framed as to secure the humble citizen from oppression. If the public want the property, let the public take the incipient steps to secure it, as one citizen takes to obtain the property of another. It would be a singular provision, that you should allow one person to take the property of another and leave it to juries or commissioners to settle the terms. The public do the same thing. Is it right or just? A citizen may be in possession of 40 acres of land, which, by the labor of his own hands, he may have reclaimed from the wilderness and brought into cultivation. The public come by commissioners and run through his land a rail road; they pass on, take the land, send on workmen and prostrate his fences. What can he do? Resort to a jury. The decision of the jury may be removed to another court. They may harrass him and compel him to take twenty-five cents on the dollar, rather than pursue his just claim. Property should not be taken for private use except by contract; nor for public use without ample compensation being first made. The section in relation to this matter should be declaratory of principle, and expressed in plain and comprehensive language. But suppose it stands as here reported, with the clause, "first paid or tendered?" This has a legal signification. What does it mean? That it shall be deposited in the State Treasury? No sir. There arises a question which ought, if possible, to be avoided. Terms should be used which do not require adjudication, either by the Legislature or the courts of law. If it should be considered that the absolute legal notion of a tender, should be carried out to its full legal extent, it would be found impracticable. Guard the fundamental law, that the public shall not take the poor man's property without compensation for it, by simply providing that the payment shall be made, or tendered or otherwise disposed of by law.

Mr. REDFIELD suggested the words, "payment previously made or provided for."

Mr. WHIPPLE would add, "payment being first made or tendered in such manner as the legislature shall prescribe."

Mr. COOK—Would that allow the money to be deposited?

Mr. WHIPPLE—Certainly.

Mr. COOK accepted it as a substitute for his amendment, and offered it as an amendment to the amendment of the gentleman from Lenawee.

Mr. WHIPPLE—It is true, as has been stated, that the judicial authorities in New York have decided that a public corporation may enter upon and use the property of an individual without first making compensation. I beg to state, however, for the information of the committee, that the question has not yet been judicially determined in this State by that tribunal whose decisions are authoritative. I think the Convention would act wisely by placing some restriction upon the exercise of this right of *eminent domain*, and provide, in clear and intelligible language, that private property shall not be taken for public use unless adequate compensation be first made. The insertion of such a clause in our constitution will have the effect of putting a question at rest which may lead to expensive and protracted litigation.

Mr. WITHERELL—Frequently the question of title is raised; it may not be known to whom the money ought to go. In such cases the Legislature can provide for the money being deposited till adjudication decides who of the claimants shall be entitled to it.

Mr. CRARY—This section has assumed various shapes by the amendments proposed, but it has come back nearly to the original proposition. He [Mr. C.] had an objection to the proposition in that form, as he had also to it as proposed to be amended. His view of the matter was this: that no property should be taken without compensation made or tendered. On the construction of the words—"compensation made or tendered,"—suppose the person who owns the property is not in the country and cannot be reached any way; it would be difficult to make a tender unless the Legislature put a great stretch on the words; therefore, he was not

in favor of the word. Leaving the construction of these to be decided by the gentleman from Berrien, [Mr. WHIPPLE,] he [Mr. C.] had still objections to the clause in the shape it stood. It appeared to him that unless there was a wish to trammel the State it ought to be left as it is. If they want it more specific, let them say that no property shall be taken by the State, and no property shall be taken by corporations, other than municipal, without compensation being made or tendered.

There were reasons for excepting municipal corporations; they should make compensation before taking property, but circumstances frequently occurred under which it might be proper to take private property without making compensation. Take the case of the city of Detroit. Suppose a fire was raging through that city and they find it necessary to pull down houses to stop the conflagration; would not that be taking private property for public use? And this necessity might arise when they had no money in the treasury. The owner might say: you shall not take my property; and a timid man might be frightened lest he should violate the law and the constitution. The city has a population of some 25,000 inhabitants; in a few years it may contain 100,000, and a case may occur when, as in Philadelphia, it may be necessary that the military take possession of houses, or fire into buildings and burn them up. The whole community might be injured by the clause that no property shall be taken by corporations without payment being first made or tendered, unless municipal corporations are made an exception.

If you look [said Mr. C.] at the non-resident lands through which our roads run, unless you are careful in framing the fundamental law, you will have no means to carry on the improvements which the public require.

Mr. WHIPPLE—I am unable to comprehend the force of the argument of the delegate from Calhoun, [Mr. CRARY.] The gentleman supposes the case of a fire desolating the city of Detroit, and suggests that the constitution should be so framed as to anticipate the happening of such a calamity. The provision as reported, is inapplicable to such a state of things. When the cities of New York and Philadelphia

were visited with a desolating fire, which baffled all ordinary efforts to extinguish it, resort was had to the destruction of buildings with a view to arrest the progress of the devouring element. Now, sir, the right thus to destroy private property does not find its vindication in the clause under consideration. It rests upon a higher law than human constitution,—the law of self-preservation,—the law of necessity. Private property, under the circumstances referred to, is not taken for *public use*, but is devoted to *destruction* to arrest a great and overwhelming calamity. With respect to the argument of the gentleman, touching the right of municipal corporations to take private property for public use, I perceive no difficulty. The charters of each city provide the mode and manner by which private property may be taken for the public use. Compensation in all such cases is made for private property thus taken, whether such property is required for making new streets or altering others; or whether it is devoted to any other public use. The gentleman, I am sure, will not sacrifice private rights by authorizing municipal corporations to take the property of individuals without providing adequate compensation.

Mr. J. CLARK was opposed to the amendments under consideration, not because he was opposed to their insertion in a proper place and at a proper time, but not in the bill of rights. There was a committee appointed who had under consideration some of those subjects at the present time.

Take, for instance, the question of public highways. He [Mr. C.] would venture to say, that under the provisions proposed to be substituted, public highways could not be laid out. It is frequently the case that there is no money in the township treasury. Under our present laws compensation is offered; if the owner of the property agrees to take it the question is settled; if not, a jury is called who assess the damages, and the money paid. He hoped the amendments would be voted down, and the article as reported adopted. Some of the amendments were proper, but not at this time or place.

Mr. CORNELL was satisfied with the article as reported. Gentlemen had been taxing their ingenuity in proposing amend-

ments. He was glad to see that they were falling back upon the original proposition.

The question was taken on the substitute for the amendment and lost.

The question recurring on the adoption of the amendment,

The PRESIDENT [Mr. GOODWIN] was opposed to the amendment as it now stood. The restriction ought to be made applicable to all cases where private property was taken for public use. He thought the exception as it stood would allow private property to be taken for public highways without any compensation. It was objectionable, however, in either view. In reference to taking private property for public highways particularly, he did not see why there should not be as much restraint as in taking it under the authority of the State in any other case. The object seemed to be to allow new townships to construct roads through unimproved lands; but it should be considered that in the case of improved lands it might operate very injuriously. Roads might be laid out through fields, orchards, gardens, and even buildings might be removed. But this was not all. Municipal corporations, including cities and incorporated villages, are proposed to be exempted. It must have come under every person's observation, who has noticed the proceedings of those incorporated bodies of men, that under whatever name, whether of councils or trustees of villages or boroughs, they were not disposed to exercise their power with great forbearance. So prevalent was the opinion with respect to the abuse of their power, that it had become a maxim that corporations have no souls. There certainly appeared to be as much reason for imposing restraints on municipal as on private corporations.

In reference to private corporations under similar provisions, it has been held that they cannot be empowered to take private property unless designed to be appropriated for public use. Rail road corporations can be authorized to take it only when the roads are made in fact public highways, and the right is secured to the public by their charters to enjoy the benefits contemplated in granting them—the transportation of public property.

In reference to the objections of the gentleman from Calhoun, cases of emergency

may arise of the nature and character to which he alludes. These cases are beyond the control of law. The objection would exist on the same ground to the original article. He had never known any statute to provide for such cases. To tear down a man's house, to destroy his orchard or occupy his field—these acts are resorted to in cases of emergency in defiance of the law at the time, leaving the compensation to be settled when the emergency should cease. He was opposed to the amendment as it stood, and should vote against it.

The question was taken on the amendment and lost.

Section 19 was read: The people shall have the right peaceably to assemble together to consult for the common good, to instruct their Representatives, and petition the Legislature for the redress of grievances.

Mr. BUSH moved to strike out the word "shall," which was concurred in.

Sections 20 and 21 were read and passed without amendment.

Section 22. Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this State.

Mr. RAYNALE offered the following substitute:

"Involuntary servitude, unless for the punishment of crime, shall never be tolerated in this State."

Mr. S. CLARK—It is taken from the ordinance of '87, and is the language of the old constitution.

Mr. RAYNALE was aware that it was the language of the ordinance of '87, but the ordinance had no influence over us; it had become a dead letter. It was true, it was in the old constitution, but he did not like the word "slavery;" it was an objectionable term in relation to the people of Michigan. If the constitution should be held for any length of time, it may come to be considered that slavery had existed here, or that there had been apprehensions of its being introduced. There was no occasion for the word in the constitution; he therefore wished the section altered.

The substitute was not adopted.

Sec. 23. No person shall be imprisoned for debt in any civil action on *mesne*, or final process, unless in cases of fraud; and

no person shall be imprisoned for a militia fine in time of peace.

Mr. WITHERELL moved to amend by striking out the words "mesne or final process." It would make it as the law now is. In some actions it is so; but in cases of trespass, a person having no property to make compensation, should be liable to imprisonment for the payment of the damages.

The motion prevailed.

Mr. SULLIVAN moved to amend as follows:

Sec. 23, line 2, after "fraud," insert "but the provision shall not extend to actions of debt for fines, penalties or forfeitures, or to actions founded on promises to marry, or for moneys collected by any public officer, or in any professional employment."

Mr. S. said the amendment he proposed was taken from the non-imprisonment act. The intention of that act undoubtedly was to protect debtors, and not wrong-doers. The section as reported covered a class of citizens which it was not intended to cover under the non-imprisonment act.

Mr. BUSH would inquire if the word "fraud," in the second section, was not a perfect guaranty, and whether it would not allow the legislature to pass an act similar to that of '46? Could not a fine be imposed where fraud was perpetrated? Would not a breach of promise of marriage, and where a public officer did not pay over moneys received by him in his official capacity, be considered frauds; and would not the legislature provide for punishment in such cases? He [Mr. B.] was in favor of having a person who commits a fraud made liable to imprisonment for it. He would not allow him, under a plea of debt, to escape unwhipped of justice.

Mr. WHIPPLE—There is a great difference between moral fraud and legal fraud; it is a moral fraud, if a man can pay a debt and will not, but you cannot arrest him. A breach of contract is a moral fraud, and yet not a legal fraud. A public officer who is entrusted to collect money and does not pay over, commits a legal fraud, and ought to be punished. Marriage was a civil contract, and ought to stand as other civil contracts.

Mr. BEARDSLEY—A poor man who is unable to pay his debts may be accused

of fraud under our present laws, and his rights jeopardized. He was opposed to imprisonment in all civil actions. He was willing that fraud should be punished; but if a person resorts to a civil action, let him come under the rule. He would not leave a door open by which under such circumstances a man might be deprived of his liberty, if not able to pay the fine. If a man has committed fraud, let him be prosecuted criminally. In any case where a person has done an injury, no benefit can arise by the man being incarcerated on civil process. You put him in jail, but do not get damages. Let it be optional whether to proceed by a criminal action or civil suit; but let the provisions of the non-imprisonment act extend to all cases where civil actions are brought.

Mr. WHIPPLE moved to amend the amendment by striking out "in actions founded on promises to marry."

Mr. HANSCOM believed if that clause were struck out, the remainder of the proposed amendment would be of no use; the other specifications are included in the word "fraud."

Mr. SULLIVAN did not admit the fact. Most of the exceptions were not covered. A fine may be imposed and a penalty follow in other cases than fraud. A fine might be imposed for not attending court on subpoena, and in several other cases which could not be classed under the head of fraud. In case of breach of promise of marriage, there seemed to be no reason for exemption. The exemption should be in cases of engagements which persons are unable to perform; as in cases of debt where persons are not able to pay; but in cases of breach of promise of marriage, he supposed the man had the power to keep the promise, and he ought not to be placed beyond the power of the law of arrest.

The motion to amend did not prevail, and the amendment offered by Mr. SULLIVAN was negatived.

Mr. CRARY moved to strike out all after "debt," to and including "fraud," and insert the words, "arising out of, or founded on a contract expressed or implied."

Mr. WITHERELL wished to know what was meant by the words "expressed or

implied." A contract was a contract, without the words "expressed or implied."

Mr. CRARY—I only proposed to substitute the clause which is in the Wisconsin constitution. I suppose if I had left out the word "implied," the gentleman from Wayne would have moved to insert it on the principle he moved to insert the word "person," yesterday.

The amendment was adopted.

On motion of Mr. S. CLARK, section 24 was stricken out.

Sec. 25. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

Mr. J. BARTOW would inquire of the chairman of the committee who reported the 25th section, if it was not provided for in the sixth section? That section appeared to cover the whole ground. Unless there were some special reason for retaining the clause, he would move to strike it out.

Mr. S. CLARK—For greater security a majority of the committee thought it ought to be retained.

Mr. WHIPPLE did not think with the gentleman from Genesee, that it was covered by the 6th section. Was it a civil right? clearly not. A political right? certainly not. Then it was not provided for.

Mr. GARDINER rose to explain. The committee had insisted that this section should be incorporated. Under the 6th section they had frequently seen witnesses ruled off the stand on account of their religious belief. The committee wanted to do away with the practice by which a court assumed inquisitorial power over our citizens. It is not right that a man should be expelled from the stand and not be allowed to give testimony because he does not concede to the creed that has been hewed out by other persons. Make them responsible under the laws for the testimony they give, and punish them if they do not tell the truth.

Mr. J. BARTOW—If there were any doubt about the construction of the 6th section, he would withdraw the amendment. He was not disposed to interfere with the rights of witnesses.

Mr. HANSCOM moved to strike out all after the word "proceedings," in section 26. He saw no particular analogy between the two clauses. If the clause relating to lot-

teries was necessary to be inserted, it ought to be in a separate provision.

The amendment was rejected.

Sec. 27. The assent of two-thirds of the members elected to each branch of the Legislature shall be requisite to every bill appropriating the public moneys or property for local or private purposes.

Mr. ROBERTSON offered the following substitute for section 27:

"The Legislature shall have no power to appropriate the public moneys or property for local or private purposes."

Pending which, Mr. COOK moved that the committee rise, report progress, and ask leave to sit again.

Which motion did not prevail.

The question recurring on Mr. ROBERTSON'S substitute, the same was not adopted.

Sec. 28. No lease or grant of agricultural land for a longer period than twelve years, hereafter made, in which shall be reserved any rent or service of any kind, shall be valid.

Mr. J. BARTOW said—The committee who have reported this article have furnished the Convention with no reasons which influenced them to report this new feature in the constitution. He would call on them for reasons for its insertion. It was copied from the New York constitution; but it was not a sufficient reason that because it was incorporated in the constitution of one State, it should be in that of another.

Mr. S. CLARK would admit that a question might be raised as to its applicability to this State; but the disposition of property in the State of New York, had been productive of very serious evils. It was to prevent the like occurrence in this State that the provision was reported by the committee. It has reference to the future, in view of what has happened in New York.

Mr. BARTOW saw no necessity for making provision against danger, when no danger was apprehended. Communities have prospered without such prohibitions as this. He knew of no other case that could be similar to that of New York. Some old rights existed after the revolutionary war; and the article in their constitution was introduced to meet the evils arising from them. Mr. B. saw no reason for a limitation to twelve or to twenty-five years.

It seemed an innovation for which he saw no necessity.

Mr. WHIPPLE moved to strike out the section. He saw no good reason for its insertion. In family arrangements, life leases are frequently given. Such arrangements could not be made under this clause, at least not to extend beyond twelve years.

The motion prevailed.

Sec. 29. No corporation shall hold any real estate for a longer period than ten years, except such real estate as shall be actually occupied by such corporation in the exercise of its franchises.

Mr. BARTOW wished to know what they were to do with it after ten years.

Mr. S. CLARK—Well sir, sell it, and not hold real estate beyond the wants of the corporation.

Mr. WITHERELL wished to ask if it were not a restriction that would be cut off by the constitution of the United States, and itself be unconstitutional.

Such a provision would operate injuriously in Michigan. Religious societies are corporations holding real estate. It contemplates that no corporation shall hold real estate for a longer period than ten years, except in exercise of its franchises. Vested rights would be impaired by this section being placed in the constitution. It has a retrospective action, and in its operation would be most oppressive. He [Mr. W.] could point to a religious society in Detroit that owns much real estate which is not necessary for their use in their corporate capacity. Under this clause they would forfeit it.

Mr. CHURCH—They would not forfeit it, but be required to change it into some other fund, less objectionable to the interests of the community.

Mr. WITHERELL moved to amend so that it would read "estate hereafter acquired."

Mr. WHIPPLE apprehended serious difficulties would arise under that section. Questions will arise as to what is to be understood by the term "actually occupied." How much can they occupy? How much is it necessary for them to occupy?

Mr. GOODWIN—A banking house and lot.

Mr. ——— The object of the clause was to prevent the accumulation of real

estate in the hands of corporate bodies. It was not forfeiting any thing, but requiring them to convert such assets into money, to prevent those inconveniences which must arise under our institutions, if large tracts of land are held in perpetuity by corporate bodies.

Mr. SKINNER moved to strike out the word "actually," and insert "necessarily."

Which did not prevail.

Mr. WALKER moved to amend by inserting the word "private" after the word "no," in first line, so that it should read "no private corporation," &c.

Which did not prevail.

Mr. LEE moved to strike out the section.

Which was negatived.

Mr. LEACH moved to strike out section 31.

Which did not prevail.

On motion, the committee rose and reported progress.

Convention adjourned.

FRIDAY, (11th day,) June 14.

Prayer by the Rev. Mr. SANFORD.

Petitions and reports were called for, and none being offered.

Mr. WITHERELL moved that the committee of the whole be discharged from the consideration of "Article —. Of the Seat of Government."

Mr. W. said the article could be then taken up and acted upon.

Mr. BRITAIN hoped, before the salutary rule adopted by the Convention was changed, some good reason would be given. He never found a legislative body able to do business as it should be done, unless all proceedings were taken in their regular order.

Mr. WITHERELL had no better reason to assign than that the article embraced only a single point, which could be settled at once, without argument or debate.

Mr. BRITAIN did not deem the reason given a sufficient one. The motion proposed to take up business out of its regular order. Although the article embraced only a single point, it might lead to debate. He saw no necessity for putting it ahead of other business—it should come up in its regular order. Mr. B. said if the regular order of business was to be bro-

ken up, it was important to know by whom it was done. He called for the ayes and noes.

Mr. J. CLARK thought there was at least one reason that presented itself for taking the question up. Members, in a few days, would be leaving on business, and in order to have a full and fair expression, the Convention should be full. Perhaps a larger number were then present than would be for some time.

The call for the ayes and noes was sustained, and the motion to discharge the committee lost—ayes 46, nays 47.

On motion of Mr. BUSH, the Convention went into committee of the whole and resumed the consideration of the Bill of Rights.

Section 9 being under consideration,

Mr. KINGSLEY offered the following substitute:

"The right of trial by jury shall remain inviolate; but to entitle the party to a jury in a civil cause he shall demand the same as the law may direct, and the Legislature may provide that a less number than twelve may constitute a jury in civil causes."

Mr. WITHERELL moved to amend the substitute by adding at the end thereof the words, "in courts not of record." Lost.

Mr. ROBERTSON asked permission to read a substitute he proposed to offer to section 9:

"The right of trial by jury shall remain inviolate; but shall be deemed to be waived, in all civil cases, unless demanded by one of the parties, in such manner as shall be directed by law; and the Legislature may authorize a trial by a jury of a less number than twelve men."

Mr. KINGSLEY said the substitute of Mr. ROBERTSON embraced his proposition, and would carry out the object he wished. He accepted it as a modification.

Mr. ROBERTSON said he hoped the substitute would prevail, or something similar in its provisions. It was true that for a long course of years the number required to constitute a jury was twelve—yet there was no magic in the number, and no good reason could be assigned why twelve men were better qualified or better constituted for a jury than six. Under the constitution, as it stood, there was doubt as to whether the act of the legislature, authorizing a jury of a less number than twelve

in the county courts, was valid; and it would be well to define it clearly. But juries of a less number than twelve had been often called in the county courts, and he had never heard but the rights of parties were as well attended to and as well settled as they could have been by twelve.

The object of a jury was to decide on the facts. As judges in the decision of questions were often bound by strict technical rules, which might work injustice, juries of the vicinage were called that they might determine the truth of facts alleged, under the law, as given by the court; they being considered better judges of questions of fact than those who habitually looked at them through the technical medium of the law.

As to the question of expense, a smaller number would be a saving to the counties, to individuals and to the state at large. Mr. R. had great respect and veneration for old institutions; yet until some good and valid reason had been given why the particular number of twelve was necessary to constitute a jury, he must favor the proposition of a less number in civil cases.

Mr. HANSCOM thought the proposition embraced a contradiction in terms.—First, the right of trial by jury was declared inviolate, and then followed the proposition authorizing the Legislature to reduce it to one or two persons. He considered the substitute, as it stood, a solecism, as the last clause of the proposition nullified the right sought to be enforced in the first. By the common law construction, a jury consisted of twelve men; and if standing in the connexion proposed, one clause of the constitution would conflict with the other, and one part of the constitution be in itself unconstitutional.

Mr. KINGSLEY said the gentleman from Oakland [Mr. HANSCOM,] thought the substitute under consideration contradicted itself—that a jury is understood to be a common law jury of twelve men. If said [Mr. K.,] that was so invariably, we had heretofore been continually violating the constitution; for the old constitution said nothing of inferior courts in reference to juries, and juries of a less number than twelve men had been authorized in justices courts. In county courts, the law provided that a less number than twelve may constitute a jury to try causes in that court; and the prac-

tice in that court was not considered unconstitutional.

Mr. COOK said the gentleman from Oakland [Mr. HANSCOM,] seemed afraid to trust this power to the Legislature, or to his constituents, where it now existed, and had heretofore existed under the present constitution, less they should entirely abolish the right of trial by jury, by reducing the number to one or two persons. The substitute only left the matter as it heretofore stood.

Mr. HANSCOM remarked, the gentleman from Hillsdale [Mr. Cook,] misunderstood him. His objection was not to the terms proposed by the substitute, but to the language used. He considered the declaration embraced in the first part of the proposition, declaring the right of trial by jury inviolate, and what followed, authorizing the Legislature to reduce the number to one or two persons, contradictory. The section, as it stood in the old bill of rights, he thought, contained all that was needed. The practice of the courts was well understood, and why not leave it so now.

Mr. KINGSLEY had been informed that in some of the new counties parties had demanded a jury of twelve men as a right, established by the old bill, and the court decided favorably to the demand.

Mr. WALKER thought a change in the phraseology would effect the proper object. He moved to amend the substitute by striking out the words "the right of trial by jury shall remain inviolate," and inserting "parties in civil suits shall have a right to a trial by a jury."

Mr. W. said the words "the right of trial by jury shall remain inviolate," received the common law construction—a jury of twelve men—and by that construction the substitute was a contradiction in terms, as the right of trial by jury was first declared to be inviolate, and then it proposed to reduce the number of jurymen. He proposed to amend by introducing other language, so as clearly to define what was intended. The word *jury* did not literally mean *twelve men*; it meant *sworn*; being derived from a Latin word, "*juro*," to swear. It was true, that for a long time juries of a less number than twelve had been called in some courts, but under dif-

ferent language than that used in the substitute.

Mr. CRARY called for the reading of the amendment. It was read.

Mr. C. said he preferred to have the word "civil" left out, as there was no reason why a party in a criminal cause should be compelled to have a jury of twelve men, if he did not want it. Leave it to the party to use the privilege as he saw fit.

Mr. VAN VALKENBURG moved to amend the substitute by inserting between "by" and "jury," in the 1st line, the word "a."

Mr. VAN V. said it was true, as had been remarked, that the phrase "trial by jury," was construed to mean a trial by twelve men. By inserting the word "a," a different construction would be given and the object attained. The motion was lost.

The question recurring on Mr. WALKER's amendment,

Mr. J. D. PIERCE wished the proposition of the gentleman from Macomb [Mr. ROBERTSON] would be retained as it read. He thought what followed, clearly and sufficiently explained the meaning of the first clause.

Mr. ROBERTSON hoped the amendment of his colleague [Mr. WALKER] would not prevail. It could not be an improvement. It was feared that a common law construction would be given to his amendment, and that it would be held that a jury meant a body of twelve men. Under a precisely similar clause in the bill of rights, it had been held by the Supreme Court of the state of New York that a jury of six in a justice's court was constitutional. (If I am wrong here, said Mr. R., the learned Chief Justice will correct me.) And other courts have held the same. He agreed with the gentleman from Calhoun [Mr. J. D. PIERCE] as to the rule of construction. In construing this section, the whole of it must be taken together. The Supreme Court, in deciding a question arising under this section, could not take one clause and give that a construction by the rules of the common law, and throw aside the rest. This would be gross absurdity. I may be wrong, said Mr. R., in the rule of construing sentences, as I am not a constitutional lawyer, but I think not. One clause of a sentence cannot be selected, and effect given to it, and the rest cast aside entirely.

It is apprehended that one clause of the substitute proposed contradicts the other. This is not the case; it only modifies and explains the other. If the provision authorizing the Legislature to provide for a jury of less than twelve men occurred in a separate section of the constitution, then there might be room to fear this misconstruction; as it is, there is none.

Besides, in the amendment offered by my colleague, there is only a difference of verbiage.

Mr. WALKER said it was admitted by some gentlemen that the common law construction would be applied to the first clause of the substitute; yet it was argued the courts could arrive at a different conclusion. This was his objection to the proposition. While it declared the right of trial by jury should remain inviolate, in the next sentence it gave the Legislature power to reduce it—that was, to violate what was declared inviolate. It was like passing an act, and then passing another, explanatory of the first, directly opposite. He proposed by his amendment to avoid this difficulty.

Mr. J. D. PIERCE—I think the gentleman [Mr. WALLER] is altogether mistaken. The language used in the substitute may be an imperfect expression in the communication of thought, but the latter portion does not mean to give the power to violate the first—it is only a limitation. That rule of interpretation must apply unless we go back to the dark ages for a rule.

A division of the question being called for, the motion to strike out was lost.

The question then being on the adoption of the substitute,

Mr. J. D. PIERCE moved to amend by striking out the word "civil."

Mr. FRALICK hoped the amendment would prevail. He thought the legislature should have authority to authorize a jury of a less number than twelve in all minor cases.

Mr. ROBERTSON said his object was to provide in one section for civil, and in another, for criminal causes.

Mr. R. then read a proposition relating to criminal causes, which, he said, he intended to offer at the proper time.

Mr. PIERCE withdrew his amendment.

Mr. GOODWIN said, with the views he entertained, he could not concur in the

proposition of the gentleman from Macomb, [Mr. ROBERTSON.] In superior courts, he thought parties should have a right to waive a jury, and the right to demand a jury of twelve men, if they required it; but in inferior courts, particularly justices' courts, juries of a less number might be authorized by the legislature.

A division of the question being called for, section 9 was stricken out, and the substitute of Mr. ROBERTSON was adopted.

GRAND JURY.

Section 10 being under consideration, the Chair stated the question to be on the amendment offered by the gentleman from Cass, [Mr. SULLIVAN:] "the institution of the grand jury is hereby abolished."

Mr. GOODWIN said—Mr. Chairman, I hope the amendment will not be adopted. The section as it now stands is not as in the old bill of rights, but leaves it discretionary with the Legislature to continue or dispense with the grand jury, as in their judgment may seem proper.

If this proposition be adopted, the Legislature will be prohibited from authorizing a grand jury in any case. It proposes a fundamental change in the law of the land, and strikes down an institution venerable for its antiquity, imposing in its character, and dear to us by associations with which it is inseparably connected. If, sir, the system is inexpedient, if it fails to accomplish the objects for which it was intended, or has become perverted from its legitimate use and purpose, then let us find some other mode better adapted to secure the rights of individuals and the requirements of justice; but until some other mode, better adapted to the ends for which it was instituted, is found, let us not hastily and inconsiderately resolve to abolish the grand jury.

I have said, sir, it was an institution venerable for its antiquity. It is a conservative institution—conservative of the peace, of the good order of society, and highly conservative of individual rights—conservative in the sense in which your judges and justices are styled conservators of the peace. It was so understood at the period when Magna Charta was wrested from the English crown—so regarded in the days of our revolution, and inserted in the constitutions of all the States—thus placed beyond the power of the Legisla-

tures—and in the Constitution of the United States.

It has been remarked, sir, that the necessity which gave rise to the grand jury has ceased to exist; that inasmuch as monarchical institutions do not exist in our land, there is no use in its continuance; but let me ask, if under the mode suggested in lieu of it, prosecutions through the agency of prosecuting attorneys and justices of the peace only—there will be no danger that groundless complaints will be preferred, that individuals will be arraigned on insufficient and unfounded charges, and the very abuses of which gentlemen complain be increased, yea, increased tenfold.

Why may not frivolous and malicious complaints be made before justices as well as grand juries? The same motives exist, and the same passions will govern mankind. And how can the danger be diminished with the numerous justices scattered throughout the country, with their generally limited information and experience in respect to criminal laws, criminal proceedings, and the evidence in such cases requisite? Would not the means of harassing citizens be vastly increased, and the cases multiplied which the institution of the grand jury is intended and calculated to prevent?

Let us look, for a moment, at the nature of the grand jury. Their action is not final. Gentlemen seem to have supposed, in their reasoning, that they try causes, and that their determination is conclusive. Their province is merely that of inquiry—to ascertain whether there is sufficient evidence of crime to require that the person charged should be put on trial, and in such cases to present the accusation by indictment. They are selected under the laws, as it is expressed, from the "body of the county," from the mass of its citizens interested in the good order of the community, and the due and correct administration of the laws. They receive the charge of a judge familiar with the subject, as to the duties they are required to perform, the laws in relation to crime, and the requisite evidence, and if there are any special matters from occurrences within the county, requiring their investigation, he is informed of it by the prosecuting attorney or otherwise, and adapts his charge accordingly. And it is a rule, which is given in charge to them, that to find a bill in a

particular case, the evidence must be such as would be sufficient on its face, if uncontradicted and unimpeached, to convict before a traverse jury. Further, if in any matter before them the grand jury have any doubt as to the *law* relating to it or the proper evidence, they can obtain the necessary information from the court. I consider this fact an answer to the statement that justices of the peace are better informed in this respect than grand jurors. Whatever the general intelligence and respectability of the former, they cannot, in inquiries of this nature, have the advantages possessed by grand juries.

When the grand jury come together, it is among their powers and duties to inquire into matters relating to the civil police of the county, the manner in which those entrusted with public affairs have discharged their duties, the administration of the school laws, those relating to highways, and generally everything connected with the good order of society; and this, independent of presentments in particular cases, is highly important and effective. There is a moral power in the periodical meeting and inquiry of grand juries, which, in my view, has great influence, and is highly valuable. I consider, sir, we obtain an ample compensation for their expense in this consideration. So much in regard to the nature and object of grand juries.

I cannot think, sir, that any member on this floor, will be willing to leave it to prosecuting attorneys to judge solely whether a prosecution shall be commenced, or proceedings instituted against a citizen. This would be too much like, too closely allied to, the odious Star Chamber process, when officers of the King's household were permitted to designate victims at their own will.

I believe, Mr. Chairman, the only other mode proposed—that suggested by the gentleman from Cass, [Mr. SULLIVAN,]—is to have an examination before justices—the justices to certify that there is probable cause of prosecution; and on this certificate the prosecuting attorney is to file an information in lieu of an indictment. And let me ask members if they are willing to leave it to justices to say, solely, after examination, whether a party shall be subjected to trial? There are in most of the counties some eighteen townships, and this

would give about seventy justices in each county, before each one of whom complaints might be entered. Would this system, sir, give less latitude to personal malice, to harassing complaints, petty and insufficient causes, and tend less to put in jeopardy individual character and right, than by the intervention of grand juries? If the grand jury perform their duty faithfully, they inquire fully into all the facts connected with the case, and if these, when fully ascertained, furnish sufficient grounds, they make a presentment; if not, proceedings against a party there terminate. True, they do not hear the defense—their object is that of inquiry in the first instance, to ascertain whether a charge should be preferred.

But it is said the grand jury is secret, and therefore objectionable. This I consider one of the incidents that tend to its value. From the very fact of secrecy they are enabled more fully to investigate. It furnishes them with the means to ferret out combinations and conspiracies to violate the laws, and thereby bring offenders to justice; and this, when it could not be otherwise effected. Further, by means of it, investigations are made without subjecting the jurors, parties or witnesses to the resentment or animosity of those whose conduct may fall under their inquiries, and renders the inquiry of the jury room more full and free. And their province being that of inquiry merely, if they find no cause for indictment, this being in such cases kept within the counsels of the jury room, occasions no injury to character or wound to individual feeling. Gentlemen have said that in this way groundless indictments have been found, and prosecutions instituted upon charges preferred from malicious motives, and cases have been stated. Such may have been—such do sometimes occur. I have known one of the kind where a prosecution was instituted against a worthy citizen upon the complaint of a grand juror, (who was so far forgetful of his duty,) upon evidence which was supposed to exist, but was not before the jury, and had in fact no existence, and where the charge, as the event fully proved, was without foundation. Yet this only proves that with all the guards thrown around them, with all the protection in the number and character of the

men, the mode of their selection, the oath they take and the charge they receive, some such cases cannot be prevented. It only shows that human nature is such that the best institutions may sometimes be perverted to evil; and if this may be done under this system, how much more under that suggested as a substitute?

The grand jury has been a theme of eulogy, of admiration and of praise, from the days in which it was first instituted, down to the present period—from the time when it first took into its keeping the general good order of society and the protection of individual right.

I, sir, call upon members of this Convention to pause before tearing down this time-honored institution. Public opinion has not called for it, and does not expect it at our hands. True, some gentlemen have remarked that in their particular neighborhoods and in certain sections, a feeling prevails adverse to it; but only one petition has been sent in to us relative to it, and as it respects my own knowledge, I never heard the subject even named until I came within this hall. Several matters of reform were discussed through the papers, and by the citizens generally; such as biennial sessions of the Legislature, the election of officers by the people, the election of the judiciary, and so on: they were expected and well understood; yet not a word was said in regard to abolishing the grand jury.

We are not here to make changes where public opinion does not require it; to change fundamental laws when they have not been brought in question; at least not unless the change is clearly necessary to meet the wants of the people, and keep pace with the progress of the times. No such necessity exists in this case; and I contend that public opinion has not been sufficiently directed to it, the question not sufficiently discussed to justify members in coming to conclusions to which some of them incline. In the county of Wayne I have never even heard the subject mentioned, and must confess I was taken by surprise when I heard the proposition here; but until I can obtain more satisfactory evidence, more convincing proof, than I at present possess, that there is public feeling against the system, I cannot believe that one in ten, nay ninety-nine in one hundred

of our citizens are opposed to it, and demand a change. Gentlemen, doubtless, are familiar with the views of persons in their own counties; but I can assure them the subject has not been canvassed in the county which I have the honor, in part, to represent.

In regard, sir, to the question of expense, there must be some in calling the grand jury together two or three times during the year; so in fact in regard to any other system; but abolish it, and it seems to me you will find this but a drop in the bucket compared to what would result if the proposition of the gentleman from Cass [Mr. SULLIVAN] should be adopted. Would not motives of interest, as well as others, operate? Would not "reasonable causes" of prosecution multiply, and expenses accumulate, by fees of justices, sheriffs, constables, witnesses, and other charges? The court of the police justice in the city of Detroit originated in this very fact. Under the present system of complaints before justices, the expenses arising from the numerous cases before them had become an onerous tax and a serious evil, and it was to be rid of this that the project was started and consummated, of having a single police justice and taking away wholly the criminal jurisdiction of other justices, and also abolishing, in respect to it, the mode of compensation by fees, and providing a salary. Even in this respect, the expense with us there is against the system suggested.

Let gentlemen, then, look at the two systems side by side in reference to the administration of public justice, the preservation of peace and order, the protection of the public interests and of individual right, and say whether that of the grand jury, administered under the laws, according to the true spirit and objects of the institution, is not in every respect superior?

In conclusion, I trust this Convention will not assume the responsibility of adopting the amendment and abolishing the grand jury. The mode of selecting grand jurors may not be as perfect as it can be made. A certain number are required to be drawn and returned, and if the assessors are careful in their selections of names, we should seldom fail to obtain proper men. But if the plan of selecting does

not ensure a grand jury of the proper character, let us ask the Legislature to amend it. I will go, heart and hand, with any one in such a measure until the system is perfected, and we can be certain of having grand juries composed of proper men—men who will look with a single eye to the interests of the community and the protection of individual rights. Under existing circumstances, I should dislike to see it abolished. It would seem to me like tearing down some ancient building that has given us shelter from wind and storm, that has protected us for ages from the fierce blast, and consigning it to destruction without due reflection or necessity. I hope, sir, it may be retained, still to be a refuge and protection in time to come.

Mr. BEARDSLEY was in favor of abolishing the grand jury system. If it was an ancient system, that was no reason why it should be retained. If institutions were venerable and useful for the reason of their antiquity, there was no object in the American revolution. The government from which the colonies separated, themselves was an ancient one, and therefore better than our own. Many old systems had been abolished by the governments of the different States, and it had never been regretted; there was no desire to renew them. The arguments of the gentleman would lead back to the old system of government, and destroy our republican institutions. Nine times out of ten, a justice was called on to issue a warrant against an accused person. The grand jury was seldom applied to as the first instrument to bring a criminal to justice. He considered them unnecessary, inasmuch as he believed a criminal could be brought to trial without any proceeding now necessary before grand juries. The ends of justice could be more readily and more cheaply attained. The expense of calling grand juries should be brought into consideration, especially if they could be dispensed with. He believed that the duties of prosecuting attorneys would not be more, if so much, as at present, if the system was abolished. The remarks of the gentleman, that justices might be partial and corrupt, was no argument in favor of the system. He [Mr. B.] believed that the duties of justices could be so plainly di-

rected by law, that little difficulty could be apprehended on that point.

Mr. J. BARTOW inquired how those gentlemen who advocated the abolition of grand juries, would get along with the 5th article of the amendments to the constitution of the United States, which prescribes that "no person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment by a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger."

Mr. CHURCH said he would refer the gentleman from Genesee, [Mr. BARTOW,] to the 7th volume of Peters' Reports; the page and the name of the case he did not now recollect; in which case the delegate would find a decision of Chief Justice Marshall, in substance as follows:

The provisions of the 5th amendment to the constitution of the U. S. (embracing the clause relative to indictments by grand juries,) are intended solely as a limitation on the exercise of power by the *government of the United States*. The constitution was ordained and established by the people of the U. S. for themselves—for their own government; and not for the government of the *individual States*. Each State established a constitution for itself, and in that constitution provided such limitations and restrictions on the powers of its particular government as its judgment dictated. The people of the U. S. framed such a government for the United States as they supposed best calculated to promote their interests. *The powers they conferred on this government were to be exercised by itself*; and the limitations on power, if expressed in general terms, are naturally and necessarily applicable to the *government created by the instrument*. They are limitations of power granted in the instrument itself; not of distinct governments framed by different persons and for different purposes.

Mr. SULLIVAN said that the delegate from Genesee would find in the case referred to by the delegate from Kent, a full explanation of the difficulty he had suggested, and that by no means could the amendment conflict with the proposed action of this body.

Mr. WALKER offered the following as

a substitute to the amendment of Mr. SULLIVAN:

"All justices of the peace shall be, by virtue of their office, grand jurors; and when complaint shall be made to any one of said grand jurors that a criminal offence has been committed, upon sufficient evidence to induce the belief that the accused may be guilty of an offence not cognizable by a justice of the peace, then such juror shall associate with him two other grand jurors within the county, and cause the accused to be brought before them for examination; and upon such examination the accused shall have a right to make a full defence; and if it shall appear upon such examination, after a full hearing, that there is a reasonable cause to believe the accused is guilty of the offence charged against him, then such jurors shall transmit a certified copy of the proceedings and evidence before them, to the prosecuting attorney of the county, and he shall draw a bill of indictment against the accused, for the offence charged, and cause the accused to be arraigned for trial thereon."

Mr. W. said the proposition embraced a system which had been considered and adopted by a large and respectable meeting of citizens of Macomb county, as a substitute for the grand jury, and transmitted to him. He offered it as he had received it, and although he might not be willing to adopt all the provisions as applicable in all cases, yet he considered the plan worthy the attention and reflection of the Convention.

Mr. CORNELL—The gentleman [Mr. WALKER] seems to have forgotten the purpose for which he is sent here. We are not here to legislate, to enact laws. The proposition consists too much in detail to be embraced in a constitution.

Mr. WALKER thought that before tearing down an old building, it was necessary to make some provision, to adopt some plan in its place.

Mr. CORNELL—Admit it for the sake of argument, yet it is not necessary to say who shall be grand jurors.

Mr. J. D. PIERCE thought the proposition of the gentleman from Macomb [Mr. WALKER] was a proper subject of consideration.

He rose, however, to say a few words in reply to the member from Wayne, [Mr.

GOODWIN.] That gentleman seemed to think, because the institution of the grand jury was ancient and venerable, it should be retained. He would ask if there were not other institutions, equally venerable for their antiquity, grievous and oppressive? yet, if the argument were good in the one case it must be equally so in the other. The English nobility was an ancient and venerable institution, but this was no reason why it should be adopted here. So we might go back to the days of Nimrod and trace down to the present period many venerable and ancient customs, despotic and monarchical; and would their antiquity be considered a sufficient reason for their adoption? He thought not.

He believed the institution of the grand jury to be inconsistent with liberty. A party accused had an inalienable right to confront the witnesses against him; and before the grand jury this right was denied. As he had before stated, he was for abolishing the system—he believed the wisdom of man was sufficient to invent some system more consistent with liberty.

Mr. WILLIAMS—I feel called upon to remonstrate against the destruction of the institution of the grand jury. I am against the proposition of the gentleman from Cass, [Mr. SULLIVAN,] and the substitute offered by the gentleman from Macomb, [Mr. WALKER,] but would prefer to see the section of the old constitution on this subject restored to its relative position in the new.

The objections to the grand jury seem to resolve themselves into two—its expense, and its secret and inquisitorial character.

With regard to the expense, I draw an entirely different inference from the gentlemen who have preceded me. I view it as a cheap guarantee of the public peace and public safety. What are the facts? The late very provident Legislature, which so bountifully provided this Convention with nothing to facilitate its business, did order one little document to throw light upon our investigations, the report of the Secretary of State relative to the expenses of our courts. I find that the expense of the grand jury was the enormous sum of \$3,871, for the year 1849.

Mr. PIERCE inquired if the amounts paid were all reported.

Mr. WILLIAMS—From all the coun-

ties except Mackinac and St. Clair, against which are marked "no report."

Now, what is this gigantic expense, under which the State is groaning? Why, allow that we have 387,100 people, (and our population greatly exceeds that number,) it would amount, if assessed *per capita*, to the alarming sum of one cent per annum to each individual. Abolish the grand jury, and your share and mine together, sir, saved by this retrenchment, would be sufficient to buy a glass of small beer. You may double it—treble it—quadruple it, and the gentleman from Calhoun is welcome to all the argument he can make from the expense.

There are many institutions, and much of the machinery of governments, which admit of no valuation by dollars and cents. I doubt not the very existence of the great stone building at Jackson, by the terror it inspires, saves the State annually many times its cost. It is so with many of the defences of civil society. The whole revenue cutter service of the United States is a preventive service. It would task the government to show by dollars and cents that the amount it saved was equal to its cost. Yet, it makes a gigantic item in the annual treasury budget. There is such a thing as saving at the tap and losing at the bung-hole. There is such a thing as being penny wise and pound foolish, and it appears to me that we are exemplifying the truth of this homely maxim. Why, a single building saved from the torch of the midnight incendiary, might exceed in value the aggregate cost of the whole grand jury system to the State.

I trust I am not opposed to progress, and to those rational reforms the Convention is authorized to perfect. But mere innovation is not reform. Destruction is not progress. Before this institution is abolished let us be furnished with a substitute, some equally searching method for the investigation of crime. Why not, if change is demanded, provide some collateral plan of effecting the same objects? Let the grand jury system remain in force, and if you wish to experiment, give the community some other method to reach the same end. If your substitute has answered the purpose, the grand jury will become a dead letter, and it will be time enough to obliterate it entirely when an-

other Convention shall be called to revise again the constitution.

No substitute has been offered, though some kinds of partial substitutes have been hinted at. The argument is that the whole business can be safely entrusted to a prosecuting attorney and justices of the peace. Now, for one, I should not regard the interests and peace of society safe for one moment in the hands of these functionaries. They would often be entirely unfit for so responsible trusts. I mean no disrespect to the dozen ex-prosecuting attorneys, nor the fifty ex-justices on this floor; but I will leave it to those who have been decimated and sent here, whether they have not left behind them scores who are entirely unfit depositories of justice.

Will the ends of justice be answered if crime is to be investigated by single justices and prosecuting attorneys? No. The justice may be ignorant, irresolute or corrupt. The complaining witness may be timid and reluctant, and he may be confronted by desperate and organized gangs, who will overawe and intimidate both officer and court. I have seen men accused of crime almost ask that a warrant might be issued against them, because they might overawe the justice, while they despaired of escaping the rigid and independent scrutiny of a grand jury, and a trial by a more solemn tribunal.

I reside on the borders of Indiana. In times past there have been confederated gangs of counterfeiters and horse thieves along the border of our State, from Lake Erie to Lake Michigan, flitting from one State to the other—concocting plans in one State to be put in execution in another. Now, I ask, what could be done towards the punishment of such gangs by commencing proceedings in open court? We all know by observation the sympathetic cords that draw rogues together, and how instinctively they fly to the rescue of each other. "Birds of a feather flock together." All that portion of the neighborhood who sympathize with the criminal, throw their weight into the scale to shield him and defeat the ends of justice. A few years since a formidable band was ferreted out and broken up in the counties of Hillsdale and St. Joseph. The delegates from Hillsdale doubtless recollect the case I allude to. It required all the energy and

vigilance of the officers, all the secrecy and ingenuity of the grand jury, to unravel knot after knot of the evidence, and bring them to justice; a justice's court, or an open examination, would have been as spiders' meshes around them, and I believe that without the grand jury they could not have been brought to justice. So bold and desperate had they become, they shot at the sheriff's *posse* in open daylight.

The only substitute for a grand jury that has been hinted at, being elective officers, let us see what must be the result. If society relies upon a prosecuting attorney, and he is made elective, as he is sure to be under the constitution we are now framing, he may owe his election to a dozen votes of men whom it is his duty to bring to justice. You will find that the rogues in the community will invariably throw their votes for the most timid, or the most corrupt, or the weakest man. Whichever party nominates the most incompetent man, will be surest of success. So of justices. In such hands society cannot be safe.

It has been argued that when the reason of a thing ceases, the thing itself should cease—"*Ratione cessante, cessat lex.*" I studied a little law once, and I believe that was the law Latin maxim. I maintain the reason of the thing has not ceased. There may be as much necessity for the interposition of this shield to protect a citizen from the malice or caprice of the prosecuting officer as ever. A confederated gang, such as I have described, might crush the single individual. My friend from Cass [Mr. SULLIVAN] says that in this secret council of the grand jury, men gratify their malevolence. I do not know how it may be with some grand juries. I never was upon more than one, and so far from being the instrument of injustice in that instance, I believe that the jury were able to ferret out the truth with unerring certainty, and to separate at a glance the cases instigated by malice from those complaints prompted by an honest pursuit of justice.

From the case mentioned by the gentleman from Jackson, [Mr. CORNELL,] and the gentleman from Calhoun, [Mr. J. D. PIERCE,] that a person had appeared before a grand jury as a witness when he was

guilty of the crime himself, I draw an entirely different inference from those gentlemen.

Mr. CORNELL—I merely stated a fact and left the inference to the Convention.

Mr. WILLIAMS resumed—At any rate the gentleman from Calhoun drew an inference hostile to the grand jury. Now I would like to know if the same witness would not have had a far greater chance of success before a single man. He was doubtless detected by the superior sagacity of the many over the few. Two heads are said to be better than one; are not twenty-three? At any rate, I should rather trust them. It is difficult to deceive them; they are removed far from those influences which affect single individuals, depending on the votes of the accused, perhaps, for re-election.

It has been said that public opinion demands the destruction of the grand jury. So says my friend from Cass. Now I do not wish to be impertinent, nor to interfere or speak for that gentleman's constituents, but I will say that our constituents mingle daily together, and I have never heard, till I arrived at this Convention, one solitary lisp of disapproval of the grand jury. So far from my own constituents being opposed to it, I believe that if on this question had been staked the issue of having a Convention, a majority would have voted against it. We were convened to promote various measures of reform. There are some demanded by the people of the State with almost entire unanimity; such as biennial sessions of the legislature, the district system of representation, and a change in the judiciary system. With regard to those, this Convention is virtually instructed. But with regard to this subject we have no such instructions. With the exception of the petition from the county of Calhoun, presented the other day by the gentleman from Calhoun, [Mr. CRARY,] a vote of the grand jury of Ionia, and some manifestations of displeasure in Jackson, we have no expression of opinion on this subject. The gentleman from Wayne [the President] is as clear in his belief in regard to his large constituency, that they demand and expect no change, as I am in regard to my own constituency in St. Joseph. Why has the public press been silent? Where

are all the petitions? From whence comes any loud clamor for reform of this evil? There is in fact, sir, no such public expression as will warrant this violent contemplated change.

It is said that the institution is secret and inquisitorial. It is proposed to let day light in upon all investigation of crime, and for whose benefit? For the benefit of those who concoct their plans in secret, sometimes beyond your jurisdiction, to be put in execution on your territory; who steal your horses in secret; who rob you in secret; who set fire to your dwelling in darkness and in secret; and who murder you in secret; whose whole means and appliances are secret; and sir, shall society not employ secrecy to head, to circumvent, to anticipate and to punish its enemies? Sir, the argument from secrecy is all moonshine. Common sense dictates its use. In the civil administration of government, secrecy is often observed. Secrecy is absolutely indispensable in the prosecution of military and naval operations. In this very building, in the Executive department, secrecy is observed, if the publication of what transpires is not conducive to the public weal. So far from being censurable, I regard the employment of secrecy as laudable in the ferreting out of crime, and society would pursue a suicidal policy if it rejected its use. It is the very soul of every well organized system of police. For what is government instituted? For the protection of us all. For your protection and mine, sir; and government abandons its duty and sacrifices us all, when it ceases to use every efficient and honorable method to protect us, open or secret.

As the policy of this innovation is doubtful, and as the arguments in favor of the grand jury preponderate, I would retain it for reasons which I should not consider sound, if it was really proved to be dangerous or burdensome. I would retain it, as the gentleman from Wayne [the President] would, for its associations. It is a part of the British constitution, or of those customs, traditions and precedents, held sacred as the British constitution. Omitted in the original constitution of the United States, it was demanded by the several States, and now stands among the first amendments. The gentleman from Wayne says it is found in almost all the constitu-

tions of the several States. I had supposed it was secured in all. I found it in all that I examined, and I had supposed that it followed every where, all over the globe, wherever the Anglo Saxon race had a foothold. It is one of those institutions which the Anglo Saxons every where cherish with pride, with affection, with undying tenacity. It has followed the Anglo Saxon race as a shadow. It is one of the mile stones that mark their progress in constitutional law and constitutional liberty. As a citizen of Michigan, I would not reject one of the noble characteristics of the race of which it is our pride and boast to be a part. The attempt to change a feature in our constitution, which has stood the test of centuries, is at least hazardous. To substitute another plan may prove quackery. But, say what you will; cavil as much as you may; notwithstanding all that has been said about public opinion, I believe it is an institution that enjoys the popular regard, the popular sympathy, and the popular confidence. If an immigrant of the same origin as ourselves, lands on our soil, does he not deem a residence among us more eligible, if he finds rooted among us those historical and time hallowed institutions with which he is as familiar as with household words. Here is an institution, simple, intelligible and safe; one to which he knows where and how he is amenable, and one which throws its protection around his person, and his property, and his life. Would not such a man cherish his home as more dear, and his rights more secure, in consequence of its preservation and existence among us?

Mr. GOODWIN said he had been misunderstood by the gentleman from Calhoun, [Mr. J. D. PIERCE.] He [Mr. G.] did not argue that the grand jury should be retained because it was an ancient and venerable institution; he distinctly stated, if the system did not answer the purposes for which it was instituted, he would go, heart and hand, with any one to perfect it; but until some system should be proposed which he considered better adapted to secure the ends for which the grand jury was organized, he should oppose its abolition.

If reform were called for in this measure, as in the case of the English nobility and other institutions to which the gentle-

man [Mr. J. D. PIERCE] had alluded, why had it not been manifested through the public press, public meetings and discussions?

In addition to what had been remarked by the gentleman from St. Joseph, [Mr. WILLIAMS,] in regard to the detection of a gang of horse thieves, he would state that a case came within his own knowledge, where a band of counterfeiters were ferreted out and broken up by a grand jury, and which he believed could not have been effected otherwise.

Mr. CRARY said the petition presented by him to abolish the grand jury system was the only one before the Convention. It came from his own neighborhood, and was signed by members of the legal profession and citizens who had served on grand juries and had seen their operations.

He would not predict the final action of the Convention, but thought they would not adopt the requirements of the present constitution. If those requirements had conformed to the common law, or the constitution of the United States, it was not probable that any call would have been made for the abolition of the grand jury at this time. The welfare of the community did not require the grand jury to take cognizance of minor offences.

The delegate from Wayne [Mr. GOODWIN] mentioned one grand jury that ferreted out a band of counterfeiters. In the instance referred to he does not tell how much was effected by the vigilance and activity of the then prosecuting attorney. One case, however, did not prove the necessity of the system, for there had been more than one band of counterfeiters in the State.

He had no feeling of veneration for the institution. He could willingly vote to abolish it, if called for by public opinion. A substitute could readily be furnished that would be equally efficient and far less expensive. Minor offences should be disposed of before the single justice. Another class could be disposed of by information as well as by indictment. Even in aggravated offences it was now the practice to go first before the magistrate to make complaint. On a hearing, the magistrate bound over for probable cause, and the case then went to the grand jury. If malice was to be gratified, the law now

gave full scope for the gratification of that feeling. The resort to the grand jury in the first instance was generally in those cases where there was no danger of the escape of the offender. Too many of the complaints made to grand juries had their origin in private malice. Often they were made to gain undue advantage.

The institution was not perfect. It could be left to be improved by the legislature, or abolished, and a different system substituted. He ought not, perhaps, to vote on the question, as his mind might be biased by early predilections. He had seen the operation of a different system—one where the fundamental law gave the right to a grand jury in only two classes of cases. He knew that such a system was efficient in bringing offenders to justice, and was attended with none of the evils anticipated. It resembled the plan proposed by the delegate from Macomb, [Mr. WALKER.] Such a plan could be made to operate well, if public sentiment was prepared to receive it. With such a system, he was ready to abolish the present institution. So far as the wishes of his constituents were known, he was called upon to vote to abolish, leaving it to the legislature to furnish a substitute, and knowing that a good substitute could be furnished, he would so vote, rather than have the system we had lived under the past fifteen years.

Mr. HASCALL said he thought it impossible to state precisely what public opinion was, in regard to the subject under consideration; as yet it had not been manifested either through the public journals or the conventions of the people. He, however, confessed that his individual opinion was, that very serious objections might be urged against the institution of the grand jury; not only on account of its cost, but also on account of the secret and *ex parte* character of its action. He believed all secret institutions to be dangerous and pernicious in their tendency, and especially at variance with the theory of our government. A venerable precedent had no charm to him, any farther than it conformed to principle, and subserved the ends of judicious public policy. It was only to be respected when it would bear the test of reason, and in its action contribute to the general good. He was not, however, ready to say that this institution

should be absolutely abolished by a positive provision of the constitution. He would rather leave it open to the legislature to abolish it or not, when public opinion could be ascertained in regard to it. If its abolition should be found to operate badly, and no good substitute could be found, it would then be easy to restore it; if abolished by the Constitution, it could only be restored by an amendment, after much time and great inconvenience. He thought in cases of high crimes, involving the punishment of death or imprisonment for life, it might be well to require that the accused should be put upon his trial by the indictment of a grand jury, and he would therefore offer the following as a substitute for the proposition of the gentleman from Cass, [Mr. SULLIVAN,] which he hoped would meet the views of the committee and avoid the necessity of further discussion: "The legislature may abolish the grand jury in all cases except where the crime charged is punishable with death or imprisonment for life."

Mr. SULLIVAN remarked that gentlemen had urged as a strong reason against the abolition of the grand jury system, that it had not been demanded by the public. He could not admit that the bare fact that no decided evidence of popular sentiment had been furnished to the convention, afforded any ground for inaction. He freely subscribed to the doctrine, that the representative is bound by the will of his constituents, so far as it is known. Where it is unknown, he must act according to the light of his own judgment, and take the risk of consequences. Who knows what kind of judiciary system the people want? Whether an independent supreme court, or a *nisi prius* system? He doubted whether any member of the Convention had reliable evidence upon that point; and yet a system must be framed and submitted for their approval or rejection. It had been urged that the institution of the grand jury was an ancient one. He did not deny that some importance was due to that consideration. When an institution has been of long continuance, it ought not to be rashly withdrawn; but where the reasons against it are strong and clear, the duty of a public servant is plain. It would very little become wise men, assembled to consult for

the common good, to sacrifice that object to mere sentimentality. We have not met here to offer an indiscriminating reverence to the past. We are here upon a work of reform; to correct the records of the past, and to frame a constitution of government adapted to the progressive spirit and ideas of the times. Let us bring measures to the standard of truth and reason. The present generation of men have as much capacity to judge of the tendencies of measures as those which have preceded. We have vastly better means of judging, because we have their experience added to our own. If the institution of a grand jury is an ancient one, that of monarchy (as has been well stated by the gentleman from Calhoun, Mr. J. D. PIERCE,) is yet older. If the institution of a grand jury is an imposing one, the trappings of monarchy and nobility are yet more imposing. We have been reminded by the gentleman from Wayne, [the President,] that the institution of the grand jury is secured by the constitution of the United States, and by those of most of the States of the Union. While we reverence, as we ought, the constitution of the United States, we must remember that it was the work of fallible and imperfect men—great men indeed—but yet men. He had looked into the constitution of the United States, and found there a provision that judges shall hold their offices during good behavior. He found a further provision that they should be appointed by the Executive, by and with the consent of the Senate. Are we prepared to adopt these provisions? If not, let us not take it as authority from which it is little less than treason to dissent in reference to this particular measure, while we disavow its authority in reference to other and very important measures. Almost every constitution which has been recently formed, contained new provisions. He was entirely mistaken if very important alterations were not made in our present system; if, for example, the structure of the judiciary system was not essentially changed.

When he addressed the committee at a former period, he took occasion to remark that the institution of a grand jury was an expensive one. He did not pretend that this afforded any argument against its

continuance, if it brought any compensating benefit. If otherwise, it did. We are here principally, perhaps, to provide for a retrenchment of public expenditures, and the matter of expense in this case deserves consideration. The gentleman from St. Joseph [Mr. WILLIAMS] had referred to a document on our tables, from which it appears that the amount paid to grand jurors is only between three and four thousand dollars a year. A large number of counties are not included in that statement—no returns have been received from them. Admitting, however, its fullness and accuracy, so far as it goes, it includes a very small portion of the expenses of a grand jury system. It includes only the amount paid to the grand jurors themselves—not the sheriffs' fees in summoning them, and subpoenaing witnesses, nor the fees of witnesses themselves. Suppose, however, three thousand dollars covered the whole expense; is that a sum so insignificant as to excite our contempt? Sir, any conventional body, or any legislative body, that yields to such a course of argumentation, will find itself plunged into boundless expense. The world is made up of atoms. It is only by attending to items that we can save any thing in the aggregate. Suppose the salary of a judge of the supreme court was four thousand dollars, and he were to propose to reduce it to three, could it not be urged with equal force, one thousand dollars is a sum too small to be regarded—it is a tax upon the citizen too paltry to be felt? So every proposed retrenchment could be combated, and no reform in public expenditures could ever be adopted. It has been denied that the expense of the existing system is equal to that of the proposed one. Let us analyze a little this matter of expense. We will suppose that two hundred examinations are to take place in twenty different counties, allowing ten cases to each of the counties. Suppose the matter goes before a magistrate; his fees in each case are, on an average, perhaps, from seventy-five cents to a dollar. Call them a dollar, (and there must be magistrates enough here to correct him if the estimate was incorrect,) we had, then, two hundred cases examined by magistrates for two hundred dollars. Suppose the cases had gone to grand juries; no cal-

culatation could be made by which the expense of each grand jury could be reduced below one hundred and fifty dollars. We had, then, grand jury expenses of three thousand dollars to set off against magistrates' fees of two hundred dollars.

This, however, is not all. Witnesses, if taken to the county seat, are to be paid their travelling expenses from the scene of crime, which may be fifteen or twenty miles distant; whereas, if the examination is before a magistrate, it will be in the vicinity of the spot where the offence is committed, and expenses will be proportionably diminished. The same thing is true in regard to officers' fees—their traveling fees under the proposed system will be only to a neighboring magistrate, while under the existing system they are to the county seat, which may be considerably distant. These remarks are all made upon the assumption that the difference in the matter of expense is only the difference between the cost of grand jury and justices' examinations; whereas, under existing regulations, it is necessary in a vast number of cases to encounter the expense of both tribunals.

When he addressed the Convention before, he alluded to the fact that the examination before the grand jury was secret—that it was an anomaly in judicial proceedings—that the best security for the faithful performance of judicial duties was publicity; so that if fraud, or partiality, or corruption existed, the world could see it. It has been urged, however, that the force of the objection is lost, from the circumstance that the grand jury proceedings are merely preliminary. It is true, they are preliminary. But are they therefore unimportant? If so, we had better dispense with them. If important at all, the examination ought to be full and public. It is urged that secrecy is necessary to secure criminals. Granted; but when is it needed? It is previous to the arrest—for that object accomplished, the argument for secrecy ceases. Cannot a complaint be made to a magistrate, a warrant issued and a criminal arrested with much more secrecy than he can be taken by virtue of proceedings before a grand jury? Can twenty-three men keep a secret better than one? Will a body of men, known to be assembled for the purpose of ferreting

out criminals, be less narrowly watched than all the various magistrates of the county? In the present careless mode of selecting grand juries, corruption often enters the grand jury room—accomplices in villainy are often there, and reveal everything to their fellows.

Is it not a fact that most cases presented to the grand jury in the first place, are of an inferior grade, while those of a more aggravated stamp come to them from the magistrates?

It is urged by the gentleman from Wayne [the President] that the jury derive important help from the charge of an able and learned judge. The benefit derived from the charge is small. The charge of the judge is generally a shot at random. He does not know what particular matters may be under consideration before the grand jury; and it is ten chances to one whether it has any applicability to the business before them. Besides, it is necessarily of too general a character to afford much help to their investigations.

It has been urged that under the proposed system groundless prosecutions will be instituted. There are precisely the same facilities for making them now. The existence of a grand jury does not prevent complaints before a magistrate. It is to the grand jury, however, that groundless accusations are most likely to be made, because a man may hope at least that he stabs in the dark, and that no eye can see the hand which wields the dagger. It is there that malevolence will seek to be gratified, because it is shielded by darkness from public scorn.

It has been urged by the gentleman from Wayne [the President] that a grand jury often rescues an innocent man from the infamy of a public accusation. If this were so, it would accomplish a noble object. But the fact is different; the charge is certain to be made public—witnesses are not sworn to secrecy—they disclose to their acquaintances the testimony they have given—it is known to the public—it is carried to every part of the county. The secrecy before the grand jury is only as to the general mode of proceeding before them, a matter which it is most important should be public; about results there is none.

It is urged that under the proposed sys-

tem inducements are held out to prosecuting officers to draw up prosecutions. The particular *modus operandi* is not pointed out; what new facilities are afforded, or what new inducements of that character are held out by the proposed system, are not disclosed. The fact is, there is no difference between the two in this respect. Complaints for crimes can now be made to two tribunals—it is proposed to limit them to one. What earthly motive or facility does it present for drumming up prosecutions? Where the prosecuting officer is allowed a salary, the more common mode of paying him, it is obviously to his advantage to have as few prosecutions as possible under either system. It has been urged that, under the proposed system, incompetent or corrupt prosecuting attorneys will be elected; all the rogues will vote for a man of that stamp. He did not perceive the applicability of the argument to the subject under consideration. It related to an entire different matter, and that was whether prosecuting attorneys should be elected. If it had any bearing upon the grand jury system he did not perceive it. But, although the remark was outside of the case, he begged leave to suggest that the competency and integrity of the prosecuting officer which would render him obnoxious to rogues, would array on his side all the moral worth of the community. He hoped it was not questionable in any county of this State which side in such a controversy would predominate.

And now, in conclusion, he would repeat what he had said on a former occasion; that it is but justice to the accused to allow him to confront the witnesses, to cross-examine them, to give him an opportunity to prepare for trial, and to explain circumstances that seem unfavorable to him. How often does it happen that an array of circumstances are brought forward against an innocent man, which a word will explain to the satisfaction of every one. Notwithstanding all the supposed advantages of the grand jury system in sheltering a man from unfounded accusations, he would repeat the question he had put on a former occasion to the intelligence of every man, whether, if he were unjustly accused, he would prefer a secret and *ex parte* examination, or would he choose to meet his accusers face to face

before a magistrate. The answer to this question cannot be doubtful. A full examination of evidence on both sides, before one, two, or three magistrates, would, in his opinion, be better both for the public and the accused.

He had listened attentively to the arguments on the other side, but, notwithstanding their great ability, his original opinion remained unshaken.

On motion of Mr. SKINNER, the committee rose, reported progress, and obtained leave to sit again.

On motion of Mr. McLEOD, the Convention adjourned.

SATURDAY, (12th day,) June 15.

Prayer by the Rev. Mr. TOOKER.

PETITIONS.

By Mr. ALVORD: of George Duffield and 419 others of Wayne county, praying that the right of suffrage may be extended to persons of color. Referred to committee on the elective franchise.

By Mr. McLEOD: of Robert Banks and 134 other citizens of Detroit, praying for certain alterations in the present constitution. Referred to the committee on the elective franchise.

Also, memorial of Wm. M. Johnston, in behalf of sundry civilized Indians, praying the rights of American citizenship. Referred to committee on the government and judicial policy of the Upper Peninsula.

By Mr. GARDINER: of citizens of Pittsfield, Washtenaw county, for incorporation of an article in the revised constitution, prohibiting the legalization of the traffic in ardent spirits as a beverage. Referred to select committee of five.

By Mr. WALKER: memorial of a public meeting held at Romeo, in Macomb county, relative to various amendments to the constitution. Referred to committee of the whole.

By Mr. CHURCH: of A. D. Rathbone and 165 others, residents of Kent county, praying that ordained ministers of the gospel may be prohibited holding offices of honor or trust under the constitution. Referred to committee on miscellaneous provisions.

REPORTS.

Mr. HANSCOM, from the committee on the militia, reported

Article —, *Militia.*

1. The militia of this State shall be composed of all able bodied white male citizens between the ages of eighteen and forty-five years, except such as are, or may hereafter be exempt by the laws of the United States or of this State.

2. The legislature shall provide by law, for organizing, equipping and disciplining the militia, in such manner as they shall deem expedient, not incompatible with the laws of the United States.

3. Officers of the militia shall be elected or appointed in such manner as the legislature shall from time to time direct, and shall be commissioned in such manner as may be provided by law.

Read first and second time by its title, and referred to committee of the whole and ordered printed.

RESOLUTIONS.

Mr. COOK offered the following:

Resolved, That on and after Monday next, the Convention will hold two daily sessions; the morning sessions to commence at 8 o'clock A. M.; the afternoon sessions to commence at 2 and a half o'clock P. M.

The question being upon the adoption of the resolution,

Mr. BRITAIN said if the member would reflect a little upon the condition of things, he would not, I am sure, press his motion at the present time. We can under the present arrangement meet and hold a session of four or four and a half hours every day, giving us plenty of time to finish the business that we have previously matured elsewhere. And I would ask the member, if he does not think it better to prepare his resolutions in his own room, rather than here. Much of the success of this Convention must depend upon the shape in which matter is presented here; for, if bills or resolutions are presented in a crude or bad shape, with the action of one hundred different minds upon the subject, we shall make but little satisfactory progress in their correction. If there were no business before the committees, it still, at the present time, would be of no advantage to the State to have more than one session per day; but when we know that

eighteen or nineteen of the committees—the most important—have not yet matured their reports, I trust this Convention will not alter its order by having two sessions per day.

Mr. COOK—I hope sir, that this resolution will be adopted. We have been here two weeks, and if we make no further progress than we did yesterday, we shall be here six months.

Mr. WHITE moved to strike out “two and a half,” and insert “three.”

Which motion did not prevail.

On motion of Mr. DESNOYERS, the resolution was amended by striking out “eight,” and inserting “half past eight.”

Mr. ROBERTSON moved to strike out “two and a half,” and insert “two.”

Which motion was lost.

Mr. WHITE moved to lay the resolution on the table.

The Convention refused to lay the resolution on the table.

Mr. BRITAIN—The gentleman from Hillsdale thinks it time for us to act. I wish to inquire of him whether as much may not have been done in the afternoon, as in the four hours we speak here? Why have we not made more satisfactory progress? Because our minds have not been matured at home. What progress would the gentleman expect us to make if we were compelled to transact all our business here, under the rules of the Convention? I apprehend we should not make much progress, and that the work would not be worth paying for. I do not find my mind matured. I find it necessary to investigate, and I presume that other members find it likewise necessary; but the labors of the committees are at the present time a sufficient answer.

Mr. COOK demanded the yeas and nays, and the resolution was passed as follows:

Yeas—Messrs. W. Adams, Anderson, Axford, Bagg, Barnard, H. Bartow, Alvarado Brown, Ammon Brown, Bush, Butterfield, Chandler, Chapel, Choate, J. Clark, S. Clark, Comstock, Cook, Cornell, Crary, Crouse, Daniels, Desnoyers, Dimond, Eaton, Gale, Gardiner, Gibson, Graham, Green, Hanscom, Harvey, Hascall, Hathaway, Kinney, Leach, Mason, McClelland, Moore, Morrison, Mosher, Mowry, Newberry, O'Brien, N. Pierce, Prevost, Redfield, E. S. Robinson, Skinner, Soule, Sul-

livan, Sutherland, Town, Van Valkenburg, Waite, Walker, Whipple, Whittemore, Williams, Warden, 59.

Nays—Messrs. Alvord, Arzeno, J. Bartow, Beardsley, Britain, Asahel Brown, Burns, Carr, Church, Conner, Danforth, Eastman, Hart, Kingsley, Lee, Lovell, McLeod, Roberts, Robertson, Story, Sturgis, Webster, Wells, White, Willard, Woodman, President, 27.

Mr. McLEOD offered the following:

That the use of this Hall be allowed to Mr. BIBB, of Detroit, this afternoon, to explain the views of the colored inhabitants of Michigan in reference to the elective franchise.

Mr. McC. had been informed that a convention of colored people had been held in Detroit to petition this Convention with regard to the elective franchise, and that Mr. Bibb had been appointed to represent their views, which to them were of vital importance, and had moreover been endorsed by a respectable number of the white inhabitants of the State; and it would be an act of courtesy on our part to listen to their views. The afternoon of this day (Saturday) would appear to be the most favorable time, as by the resolution we commence two sessions on Monday.

Mr. CHAPEL moved to amend by substituting 5 o'clock.

Mr. WHIPPLE—I hope that this will not grow into a precedent. If it does, we shall be requested to give up this Hall for all political questions.

Mr. WILLIAMS—Let them all come.

Mr. WHIPPLE—Then we shall be deprived of sitting here.

Mr. GALE—I hope the amendment will not prevail. Members of this Convention would be glad to hear Mr. BIBB speak, to hear what he has to say. There is no session this afternoon, and those who wish to hear him should not be deprived of it. Those who do not, can stay away. I hope it will not prevail.

Mr. ROBERTSON—If any good reason can be given by my colleague, [Mr. CHAPEL,] I shall vote for it; we have had no reasons as yet.

Mr. CHAPEL—I can give reasons, and can give them in a few words. I believe the subject is not properly connected with the business of the Convention. I do not know what right this Convention has to

give audience upon business that does not properly belong to it. We may next have an application for a free soil meeting, next for some local question; and I am opposed to it *in toto*. We have business here; we were sent here by the people to fulfill the duties they imposed upon us; and we have no right to give up this Hall at any time, when we might be transacting our own business, to listen to a subject that is no way connected with our duties. I want the business that we came here to do to be done first.

Mr. LEACH—As the Convention is not to be in session this afternoon, it cannot make any difference to the business.

Mr. VAN VALKENBURGH—If I understand the argument of my friend from Macomb, he tells us that the object of this meeting is foreign to the duties of this Convention. Is this the fact? Are not numerous petitions laid before us praying that the elective franchise may be extended to the colored people? Shall we close our ears to these petitions, which come up from our own citizens as well as the colored people? I trust not. Whatever may be the final sense of this Convention with respect to this matter, I hope that we shall not exclude from these halls the friends of the colored people, and that we shall not be called to order by members telling us that this is a subject foreign to the Convention.

I trust we are open to conviction; that we shall attend to all petitions. I am in favor of granting this Hall to the friends of the colored people, so that they may present to us their views, and if the free soil men wish us to hear their views, I am ready to hear them; and I trust that this Convention will not exclude from their sympathies the petitions of the colored people.

Mr. COMSTOCK—The question is, whether we shall grant the use of this hall to hear a petition upon an important question. And sir, I am willing to grant it, even although the petitioner has a skin darker than my own. I hold that they have the privilege and the right to make known to us their wishes and desire—to us, the servants of the people.

I am willing to hear what they have to say; as this hall is not to be occupied by an afternoon session, any member

who does not choose to hear, can stay away; while on our part it is proper as a mere act of courtesy.

Mr. CHAPEL—I wish it to be understood that I am one of those plain kind of men who have nothing to say on the buncombe side, as this is one of the cases in which gentlemen fear to be misrepresented. The gentleman from Oakland [Mr. VAN VALKENBURGH] talks largely, and very much like talking for buncombe. Now, the true policy is that this Convention should attend to its legitimate duties, and consume no more time than is absolutely necessary. The people expect that this Convention will adjourn at the end of four weeks; and here we are, day after day, making speeches for buncombe.

I am opposed, sir, to granting the use of this hall to any class of men in this State, when we can occupy it with our own legitimate business. Look at the treasury—the means are scant; we learn the fact from every department.

Now, sir, I do not wish to deprive Mr. BIBB of the use of this hall, except when we can be seated here forwarding business connected with the revision of the constitution. I hope that it will not be given up except at such times as it cannot be used with advantage by us.

Mr. McLEOD—I think that the gentleman misapprehends. The Convention said they would hold afternoon sessions from next Monday, implying by that vote, that they would not hold a session this afternoon—therefore, it will not interfere with the business of this Convention if Mr. BIBB should occupy the hall this afternoon. I confess that I am a little selfish; I presented the petitions of some Indians who call themselves civilized, and I wish to hear the arguments of Mr. BIBB.

Mr. CHAPEL—I will amend my motion by this amendment: “unless occupied by this Convention;” and I certainly shall move that we meet here at 2 o’clock.

Mr. VAN VALKENBURGH—I feel called upon in self-defence to meet the argument of my friend from Macomb. He talks very fluently upon the subject of buncombe. He has just given us a treatise upon the subject of the treasury—that we have been here two long weeks, and asks what has been done. We find him on the side of business and progress, but I would

ask, sir, was this treasury speech intended for this Convention, or others? Do we not know the state of the treasury? Is not this speech intended for the ears of his constituents?

I apprehend that the citizens who ask at our hands the use of this hall, have a right to it.

The gentleman from Macomb says that when the Convention adjourns it will adjourn to meet at 2 o'clock. Does he not know that this Convention, by resolution, when it adjourns, will adjourn till Monday morning—then hold two sessions each day. We are the servants of the people—they are the sovereigns. Many citizens have affixed their names to this petition, and it is our duty to give it due consideration.

I hope that this amendment will not prevail—that the use of this hall will be granted unconditionally for the purpose asked.

Mr. CLARK—I rise to call the attention of the House to the rules. No member has a right to speak twice on the same question without leave of the House.

The amendment offered by Mr. CHAPEL was lost.

The resolution offered by Mr. McLEOD was adopted.

On motion of Mr. COOK, the Convention went into committee of the whole, and resumed the consideration of Article 1, Bill of Rights, Mr. BRITAIN in the chair.

The question being on Mr. WALKER's substitute, offered yesterday, for Mr. SULLIVAN's amendment—

Mr. KINGSLEY—I am opposed to the amendment, and likewise to the substitute. It is too violent a method. People have not yet made up their minds upon the subject. It had been agitated as yet only in part of the State. If we proceed in this Convention making too many changes, not called for by the people, one part of the community will get hold of one objectionable part, another will get hold of another, and the result may be that we shall lose the result of our labors. Then, again, it looks too much like legislation. I had rather leave it as reported by the committee. Some say we will not vote to abolish the grand jury unless we know what the substitute is. It will probably be the best to leave it to the legislature, and not abolish it. Before another legislature sits here, public opinion

may be formed, and the legislature can then decide. They can dispense with the powers of the grand jury in part, and if that works well, they can go further; if it does not, they can reinstate them in the same position they occupy now. I hope the amendment will not be adopted, as it is a matter that requires grave consideration.

The substitute was not adopted.

Mr. HASCALL offered the following as a substitute for Mr. SULLIVAN's amendment: "The legislature may abolish a grand jury, except for crimes where the penalty is death or imprisonment for life."

Which was not adopted.

The question then recurring on Mr. SULLIVAN's amendment, which was to add at the end of section 10, "the institution of the grand jury is hereby abolished,"

The committee refused to so amend.

Mr. SKINNER offered the following amendment, to commence section 10:

"No person shall be holden to answer for any crime, the punishment of which may be death or imprisonment for life, unless on a presentment or indictment of a grand jury, except in the land or naval forces, in the militia when in actual service in time of war or public danger; and grand juries shall have cognizance of no other offences."

Mr. SKINNER—I introduce this resolution as taken, word for word, from the constitution of the State of Connecticut. I am satisfied that this Convention wants something done with the grand jury system. This has been pretty ably discussed, but it is an important subject. It is attacking an old institution, so old and so ancient that it is difficult to attack it successfully. But if the inquiry is conducted in a right spirit, it will not be unprofitable, even if it should take us some time longer. If we arrive at a satisfactory result, we shall do a great service to the State. The simple benefit of reducing the number of the traverse jury alone, will pay for the expense of this Convention.

I am satisfied that the institution of the grand jury, however beautiful in theory, is wrong radically, and works a wrong. It even, in my opinion, affects the ends for which it was instituted. It does not work the end proposed in the best manner. Whatever benefits it may have conferred

at other times, at this time and in this country it is not what we want, nor does it accomplish its object. It is a cumbersome, expensive system, nor is there any reason for its peculiarities; for it is a peculiarity. What have we that bears any analogy in any other department of government? That a tribunal shall be in operation in secret, that an examination shall be held in secret, appears to me incompatible with our institutions.

I say that nothing at the present time could shield it except its antiquity. While all around us is in improvement, I do not feel bound to bow down to antiquity alone.

The very reasons which have been used in favor of the retention of grand juries appear to be fallacious. Why is it necessary that this tribunal should be conducted with secrecy? It is said, that criminals may not have an opportunity of escaping; but this pretext is fallacious. Here is a time set for the grand jury to meet—these men are all known—every man knows that at such a time such and such men will meet to ferret out criminals. If a public proclamation were made that on a particular day all the rogues would be arrested, could you catch them? If it was a new thing how would that meet the views of this Convention? Would it be well to have it known that upon a certain day a large body of men would meet to convict of crime? No sir. I was once prosecuting attorney, and while drawing up a bill against a rogue, he gave us leg bail, and we could not catch him. It is known when the grand jury sit and who they are. If the rogue thinks he is not safe he leaves for parts unknown.

It is considered as a secret, but it is for that very reason that it is more public—like a secret passed from mouth to mouth as a secret, which only gives it more publicity. The only effect it has is to permit criminals to abscond before they can be apprehended.

It likewise acts most injuriously against persons that are complained against. It is not once in one hundred times that crimes are complained of before a grand jury. When a crime has been committed, when public sentiment has been outraged, the citizens go before a justice of the peace and bind the criminal over; while the ca-

ses presented to the grand jury are not presented from motives of public justice, but to indulge a spirit of revenge, and cases are thus presented that never would have appeared before a justice of the peace, where a man can meet the testimony face to face. Perhaps the same testimony is not given as if it were an open trial.

But it is said that this is only the incipient stage. Sir, it is not so. What can be more effectual to destroy character than to procure an indictment to be found against a person? Does not his character suffer while he lies under this imputation, and can it ever be wiped off? Never. Does he then stand a fair chance for trial? No sir. The report is, such a man lies a prisoner for such an offence. Every man has formed an opinion, not sufficient to preclude him from being a jurymen, but sufficient to prevent the prisoner from having an impartial trial; and I cannot perceive any particular benefit that arises from this mode of proceeding. If a man is brought before a justice of the peace, he can probably make a sufficient defence in five minutes, and before even a rumor has gone abroad through the country; but it is not so with the grand jury—he may lie under the imputation for a long time. Thus revenge, by this machinery, may and does frequently work injury to an innocent man.

We will suppose that he has sufficiently made his defence, and is discharged. He has laid a long time under this imputation; one half after all believe that he is guilty and has escaped through some technicality. His character does not stand the same as it did before. I cannot see any benefit that we derive from it.

Then, again, it is expensive. Some gentleman [Mr. WILLIAMS] said the expense was but a few cents per head, but I think that statement must be erroneous; but true or not, that comprises but a small portion of the actual expense. I repeat, again, that all heinous crimes go before a justice; all cases of malice go before a grand jury.

One gentleman told us it had a good effect with regard to its moral bearing upon a community. I have lived in Connecticut twenty years, and I never heard of more than one or two grand juries, and

never saw one in my life. And I would ask where, sir, have you a higher tone of morals? Where are criminals more speedily and surely punished. Then there is a mode without this expense, without this inconvenience. It is not, then, a new scheme to all, although it may be so to some, for nowhere is justice administered better than in the State of Connecticut.

I have not the vanity to believe that I can throw much light upon the subject, but but if I can throw in two mites I shall be thankful.

If the Convention think best to abolish the grand jury, there can be nothing in the way of a substitute safer or better than that used by the State of Connecticut. This substitute does away with a grand jury, except in cases of death or imprisonment for life; and I am willing to throw all the machinery for a guard that is possible in favor of a person thus accused—that he be tried by a grand jury, that he be tried by a jury of twelve; thus we might reconcile the two extremes of opinion in this Convention, and do away with a great share of the expense.

There are one or more grand jurors appointed in each town, whose duty it is to make complaints. They go before a justice of the peace; if necessary they bind over the accused—the accusation is made without expense—made openly—the accused has a chance of meeting his accuser openly, and the accuser has a chance of drawing up his charge properly.

Now there is a great difficulty in drawing up bills. The prosecuting attorney has to draw up bills in a hurry or keep the grand jury waiting—that is the reason why so many bills are quashed, and no wonder that it is so.

I see no propriety in the case going through two tribunals. I hope the amendment will prevail; for if we take no action the Legislature will take no action, while the present system does no good, but a deal of injury.

Mr. GOODWIN—I wish to correct a misapprehension the gentleman has fallen into. I alluded partly to the charge of the judge to the grand jury, when I spoke of the moral effect.

I will also correct a remark from the gentleman from Calhoun. He said that there ought to have been many more in-

stances where grand juries should have found bands of counterfeiters. There were many more, but the special case to which I alluded was a case tracked out by a grand jury where any other method could not have been adopted.

Mr. ROBERTSON moved to amend by striking out "in the land and naval forces."

Mr. McLEOD—My friend from Monroe, who says a good many good things in a quiet way, says that this may have reference to a possible dissolution of the Union. As I am a Unionist myself, I hope it may be stricken out.

The amendment was carried.

Mr. WHIPPLE—I have a substitute to offer for the amendment, but I regret to say that I am so indisposed I am not able to discuss the subject properly. I will present it in two sections:

Sec. 1. A grand jury shall consist of not less than nine nor more than thirteen persons.

Sec. 2. No person shall be held to answer for an offence punishable by imprisonment in the State prison unless on presentment of a grand jury.

My first proposition is, to reduce the number of grand jurors to not less than nine, nor more than thirteen persons. It has been said by my acute friend from Cass, as well as other gentlemen, that the expense is very great, and that it would be much diminished if, instead of a grand jury, complaints were made before justices of the peace. I propose to remove this difficulty by the amendment. We all know that the number at present consists of twenty-three. I propose to reduce this one-half. The expenses incident to the mileage will be reduced one-half; and I give as the result of my experience, that this mode of investigating crime before a body consisting of nine persons, will be much less than the expense incident to an investigation of crime before a justice of the peace. When the proper time comes, I will go into detail; at present I have not the strength. My second proposition is, that no offences except such as are infamous, shall be cognizable by a grand jury. The difference between my proposition and that of my friend from Washtenaw, is this: his proposition is, that offences punishable with death or imprisonment for life, require

the investigation of a grand jury; mine is, that all offences which are infamous in their nature, require that investigation. The same reasons which would induce the adoption of his resolution, will induce a favorable action upon the amendment which I propose. What difference is there in principle between an offence punishable for life, and another punishable by imprisonment for twenty years? I apprehend that the man who was sent to the State prison the other day, for twenty years, for the crime of murder, felt that he had gone for life.

Mr. VAN VALKENBURG—My friend from Berrien tells us that it is an institution that should not be struck out of existence. If we pass a law permitting the accused to appear before the body which we term a grand jury, by that very act we shall strike it out of existence. Where would the difference be between a so called grand jury and a traverse jury? You bring a man, try him, and again a second time try him by a traverse jury. If the legislature abolish this, they will do what at least I should wish them not to do, as I consider it venerable by its age and safe in its action; that they would destroy one of our firmest bulwarks when they abolish the grand jury.

Mr. WHIPPLE merely wished the matter tested by experience.

Mr. BAGG—In giving my reasons in favor of the substitute of the gentleman from Berrien, I do not know that I shall be able to grasp the whole subject. I thought I was ultra, probably the most ultra member in this Convention; and I find that I am drawn by the force of circumstances into a conservative position. I have listened to the various debates for the last two or three days, and I do think that those who wish to abolish the grand jury system, have failed to show reasons for the act. For myself, I have a peculiar way of judging the truth of a principle that is under investigation, probably peculiar to myself.

Truth is said to be a unit, and always agrees with itself. Error never agrees with itself, nor does it agree with truth. One will tell you that he is opposed to a grand jury, and in favor of justices of the peace acting in that capacity; another wishes one grand juror chosen from each town in

the county, and each ward in a city; another wants to make the prosecuting attorney, in company with the justices, a substitute; another, that three or four of the justices shall make the substitute. This shows that they do not agree. One says that he objects to the grand jury system because it is too secret; the very next tells us that it is not half secret enough—not half as much so as that of an office of a justice of the peace. But it is useless to follow them in their various arguments and windings, as they do not tend to any one point. The only conclusion that they appear to come to is, that they do not know what a grand jury is instituted for. Capital has likewise been endeavored to be made by coupling it with the nobility of Great Britain. I say, sir, if the nobility of Great Britain, or the grand jury of Great Britain have established better principles of justice than a democratic government has done, then I am in favor of that principle. Nothing can tarnish truth, from whatever source we receive it. We should not look at the principle with prejudice, nor should we give a spring to the prejudices of the people upon this question. The question before us is, whether we shall abandon the grand jury system, or with a less number preserve the system as a court of inquiry; and upon due inquiry, send a criminal to stand his trial before a traverse jury of his county; and I contend that it serves better the cause of morality, and has a greater tendency to check crime. I shall vote for it, because I have ever thought that twenty-three were too many, while twelve men, in my opinion, will be infinitely better than some one man elected in a corner of some of our cities or towns. Call them grand jury or what you will, they ought to be retained. Dollars and cents have but little to do with me in comparison, where crime on the one hand, and innocence on the other, are concerned. Some gentleman computed the expense at two or three cents a head; if it amounted to a dollar it would still be as nothing; would be considered as of little importance. In certain local situations more crime is committed than in others; owing to their locality. In Detroit, owing perhaps, partly to the facility of the escape of criminals into Canada, there is more crime committed than in all the rest of the State. Well,

sir, if we take the district attorney system, he may be called to the extremity of the county; he must be omnipresent, for he may have to attend a case in Detroit and a case in Plymouth at the same time; fifteen or twenty cases may be going on at once. I do not believe in it, sir. I believe that we ought to recognize a grand jury in a distinct article. I do not believe that we can strike it out without endangering the constitution itself. The very worst system imaginable, would be the union of a justice of the peace, sworn to inquire into the body of a town, united with an itinerant, perambulating prosecuting attorney, sworn to examine into the body of a county. It is an innovation not called for by the people.

Mr. SUTHERLAND—I am but a young member of this body, and this fact inclines me to silence; but when important questions are under discussion, I feel bound to give utterance to my sentiments. As far as the county of Saginaw is concerned, I have heard many say that the institution of the grand jury was a curse; but it does not become me to repeat the sentiment, in opposition to the able arguments I have just heard. But, from the little experience I have had, it does appear to me that the system involves a great deal of delay that is unnecessary in criminal proceedings. In criminal matters of which justices have jurisdiction, a party appears before the magistrate, and makes his complaint; the person complained of has an opportunity to make his defence; if he does not exculpate himself, judgment is given against him; but after this, the case has to be laid before a grand jury; a delay of months might occur. When the matter is first investigated, the whole aspect of the case is seen. The public are convinced that the person ought to be acquitted or not, and as a general thing, justice is done. When greater crimes are charged, why not have the prisoner brought up in a similar manner, and have him examined? In these cases, the services of the prosecuting attorney are always called in under the present system, and he has an opportunity of ascertaining whether there are any grounds for the charge; and having heard the evidence on both sides, he is prepared to draw up an indictment. Would not that be better than binding over the prisoner? Why

not have an indictment immediately after the first examination, and have a traverse jury try the prisoner, instead of waiting until a grand jury bring in a bill? Would not both expense and time be saved by this method? Would not justice be as likely to be done to the parties? The examination before a grand jury is always *ex parte*; and where is the propriety of laying the matter before an *ex parte* tribunal, after there has been an examination of witnesses on both sides, in a preliminary proceeding. If the prosecuting attorney has found reason or probable cause to charge crime upon the prisoner, is not that sufficient to hold him to final trial, as soon as the parties get ready?

It has been said that the expenses of the grand jury amounted only to one cent to each citizen. If the cent had been spent in the manner proposed by the gentleman from St. Joseph, it would have done the citizens more good.

Mr. WHIPPLE—Five cases of murder have been recently presented by grand juries.

Mr. SUTHERLAND—Three thousand eight hundred and seventy-one dollars have been spent by thirteen grand juries.

Mr. WILLIAMS—Twenty-two counties have been reported.

Mr. SUTHERLAND—I looked at the report with some care. Thirteen grand juries have set at an expense of \$300 each. Might not that expense have been saved, and justice done to all parties?

Mr. McLEOD—As the gentleman from Berrien proposes to give his views more fully, I certainly hope that we shall have the benefit of them before finally settling the question. It certainly comes to us under imposing circumstances, presented by the Chief Justice of the State, and so ably seconded by the gentleman from Wayne, [Mr. BAGG,] who says that he represents more crime than any other member on this floor.

Mr. McCLELLAND—Having been absent for two or three days, I have heard but little of the discussion upon the subject under consideration, and never having had any intimation until within the last week that there existed any desire to abolish the grand jury system, I confess I am not prepared to give a satisfactory vote.

I believe that an attempt was made to

engraft in the article a provision requiring in most cases a presentment or indictment of a grand jury, and it failed. Had I been here when this proposition was made, I should have voted against it, because I prefer to submit the whole matter to the Legislature. I would not limit its action, and for the reason that it is, at least in this State, a new question, of magnitude and importance, which has not been agitated or discussed, and upon which the people have expressed no opinion. The abolishment of the system would be a great innovation, and might give rise to many and dangerous evils; but at first blush the reasons for its discontinuance have great weight, and many are led to doubt the propriety of continuing it. The novelty, however, of the experiment is too obvious not to deter us from making it a part of the fundamental law of the land. Are we able in so short a time as we can devote to its consideration to give it that attention which it deserves? It is an important change, and the attention of the people being now directed to it, if it meets their approval the Legislature will adopt their views and dispense with the system; and when it has been fully and fairly tested, if it meets the approbation of its advocates, the system will not be reinstated; but if, on the contrary, its abolition proves disastrous, it can and will be restored.

If I am informed correctly, the experiment has been tried in one of the States of the Union, and there it is said to operate satisfactorily. In Scotland, too, the grand jury system does not exist, and yet no inconvenience or evil is found to arise from its want. In England and most of the States, it is cœval with most of the valuable institutions of the country, and is deemed absolutely necessary in the prosecution and prevention of crime. Such being the case, it is not strange or remarkable that doubts should exist in the minds of members as to its propriety or impropriety.

I am not prepared to discuss the question on its merits, nor do I perceive any good that can at present result from it. The principle is new—it has not been acted upon by the people, and they have expressed no opinion upon it—and it would be improper and impolitic for us to engraft it upon the constitution without more con-

sideration and regardless of their sanction. I would much rather the Convention would confine its action to those subjects which have called us together, and in regard to which we can have but little difficulty if we reflect the wishes of our constituents.

There are many features of the grand jury system which are objectionable, but we are not prepared to correct them, and had better leave it to the action of the Legislature. They can examine into the facts and give the subject due consideration, and change, modify or abolish it, as circumstances may require. It is, undoubtedly, susceptible of great improvement, and may, perhaps, be made less expensive and far more useful and serviceable than it is at present. No good reason can be assigned why a criminal, after a thorough examination before a magistrate, and a requirement to appear before the court and answer to the offence of which he is charged, should not be tried without the intervention of a grand jury. On the other hand it may be necessary to have this machinery to examine into criminal combinations and conspiracies; and to induce grand jurors, under the solemnities of the oaths they take, to disclose facts in regard to persons and offences committed in their neighborhood, that might lead to the conviction of offenders against the laws, and which otherwise would never become public or be made grounds of accusation.

But my object is not to discuss the question on its merits; I merely desire to impress upon the Convention the impropriety of our giving the proposition to abolish the system entirely, a favorable consideration. The Legislature can try experiment after experiment, and if evils result from its action it will not be of so permanent a character as if we adopt it as a part of the constitution of the State.

As there are, perhaps, few prepared to vote advisedly upon the question, I submit most respectfully whether it is not the part of wisdom to leave it entirely to the action of the Legislature.

On motion of Mr. RORERTSON, section 10 was amended by inserting in the second line, after the word "jury," the words "which may consist of less than twelve men in all courts not of record."

On motion of Mr. McCLELLAND, sec-

tion 10 was amended by inserting after the preceding amendment, the words "to be informed of the nature and cause of the accusation."

Mr. BEARDSLEY moved to amend section 10, by inserting after the word "defence," in second line, the following, viz: "who shall have the right of reply."

Mr. CHURCH inquired whether the delegate from Eaton meant by the words "right of reply," the right to make the closing argument upon the trial—a privilege now accorded to the prosecution.

Mr. BEARDSLEY—Yes sir; we all know the old maxim, that "it is better that ten guilty shall escape than one innocent man shall suffer."

We all know that the best talent in the land is employed in the prosecution—that the utmost ingenuity is employed against them. The object of the amendment is to give him an opportunity for explanation, that he may have a chance for his life or his liberty. We all know that there have been cases where men have been convicted and executed, and afterwards it has been ascertained that they were innocent. It is right that crime should be properly prosecuted, and those who are criminals should be punished; but it is not a correct principle to consider a man guilty the moment he is accused. Every means should be given him to prove his innocence—to preserve his liberty or his life.

On motion of Mr. LEACH, the committee rose, and through their chairman reported the article back to the Convention with sundry amendments, in which the concurrence of the Convention was asked.

The committee of the whole were discharged from the further consideration of the same.

On motion of Mr. J. D. PIERCE, the article as amended was laid upon the table and ordered printed.

On motion of Mr. MOORE, the committee of the whole were discharged from the further consideration of an amendment to the Bill of Rights, offered by him on the 10th inst., relative to persons engaged in duels, &c.

On motion of Mr. WHITE, The Convention then adjourned.

MONDAY, (13th day,) June 17.

The Convention met pursuant to adjournment, and was called to order by the President.

Prayer by the Rev. Mr. MERRILL.

The President announced the following select committee on the petition of citizens of Pittsfield, Washtenaw county, for the incorporation of an article in the revised constitution prohibiting the legalization of the traffic in ardent spirits as a beverage: MESSRS. GARDINER, LEACH, AMMON BROWN, HATHAWAY and W. ADAMS.

PETITIONS.

By Mr. KINGSLEY: of 205 citizens of Washtenaw county, praying that the amended constitution may provide for extending the right of suffrage to colored people.

Referred to the committee on the elective franchise.

REPORTS.

Mr. WHIPPLE, from the committee on the executive department, submitted the following:

ARTICLE —.

Executive Department.

1. The Executive power shall be vested in a Governor, who shall hold his office for two years. A Lieutenant Governor shall be chosen at the same time and for the same term.

2. No person shall be eligible to the office of Governor, or Lieutenant Governor, who shall not have been five years a citizen of the United States, and a resident of this State two years next preceding his election; nor shall any person be eligible to the office of Governor who shall not have attained the age of thirty years.

3. The Governor and Lieutenant Governor shall be elected at the times and places of choosing members of the Legislature; the persons respectively having the highest number of votes for Governor and Lieutenant Governor, shall be elected; but in case two or more shall have an equal and the highest number of votes for Governor and Lieutenant Governor, the Legislature shall, by joint vote, choose one of the said persons so having an equal and the highest number of votes.

4. The Governor shall be Commander-in-Chief of the military and naval forces of this State.

5. He shall transact all necessary busi-

ness with the officers of government, civil and military; and may require information, in writing, from the officers of the Executive department upon any subject relating to the duties of their respective offices.

6. He shall take care that the laws be faithfully executed.

7. He shall have power to convene the Legislature (or the Senate only) on extraordinary occasions. He shall communicate by message to the Legislature, at every session, the condition of the State, and recommend such matters to them as he shall deem expedient.

8. He may direct the Legislature to meet at some other place than the seat of government, if that shall become, after its adjournment, dangerous from a common enemy or a contagious disease.

9. The Governor shall have the power to grant reprieves, commutations and pardons after conviction, for all offences except treason and cases of impeachment, upon such conditions, and with such restrictions and limitations, as he may think proper, subject to such regulations as may be provided by law, relative to the manner of applying for pardons. Upon conviction for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the Legislature at its next meeting, when the Legislature shall either pardon, or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall communicate to the Legislature at each session, each case of reprieve, commutation, or pardon granted; stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the reprieve, commutation or pardon.

10. In case of the impeachment of the Governor, his removal from office, death, inability to discharge the powers and duties of the said office, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant Governor, for the residue of the term, or until the disability shall cease. But when the Governor shall, with the consent of the Legislature, be out of the State in time of war, at the head of a military force thereof, he shall continue Commander-in-Chief of all the military force of the State.

11. If, during a vacancy of the office of Governor, the Lieutenant Governor shall be impeached, displaced, resign, die, or be incapable of performing the duties of his office, or be absent from the State, the President of the Senate shall act as Governor, until the vacancy be filled, or the disability shall cease.

12. The Lieutenant Governor shall, by virtue of his office, be President of the Senate; in committee of the whole, he may debate all questions; and when there is an equal division, he shall give the casting vote.

13. No member of Congress, nor any other person holding office under the United States, or this State, shall execute the office of Governor.

14. Whenever the office of Governor or Lieutenant Governor becomes vacated, the person executing the duties of Governor for the time being shall give notice thereof; and the electors shall, on the Tuesday next succeeding the first Monday of November next, choose a person to fill such vacancy.

The Lieutenant Governor and President of the Senate pro tempore, when performing the duties of Governor, shall receive the same compensation as is allowed to the Governor. When in the actual performance of his duties as President of the Senate, the Lieutenant Governor shall receive the same compensation as shall be allowed to the Speaker of the House of Representatives. The like compensation shall be allowed to the President of the Senate pro tempore, when in the actual discharge of the duties of President of the Senate.

16. The great seal of the State shall continue to be kept by the Secretary of State; and all official acts of the Governor, his approval of the laws excepted, shall be thereby authenticated.

Which was read the first and second time by its title, referred to the committee of the whole and ordered printed.

Mr. CRARY, from the committee on the judicial department, to whom was referred the following resolution:

Resolved, That the committee on the judicial department be instructed to inquire into the expediency of providing that the legislature, at its first session after the adoption of the constitution, shall appoint three commissioners, whose duty it shall

be to reduce to a written code, the whole body of the law of this State, or so much thereof as to them shall seem expedient;" reported the same back to the Convention, asking to be discharged from the further consideration of the same, and recommended its reference to the committee on the schedule.

The committee was discharged, and the resolution so referred.

RESOLUTIONS.

Mr. Green offered the following:

Resolved, That the chairman of the committee on education be instructed to address letters of inquiry to the present and late superintendents of public instruction of this State, soliciting their opinions as to the propriety of establishing the free school system, and particularly what, in their opinion, would be its effects upon general education in this State.

Which, on motion of Mr. DANFORTH, was laid on the table.

Mr. WHITE, if in order, would call up the resolution he had previously offered for eliciting certain information from the Auditor General. He would state that he had seen the Auditor General, and had been informed by that officer that he could furnish part of the information sought; a part, it would take some length of time to furnish. He [Mr. W.] hoped the resolution would pass, that so much information as could be readily obtained might be had.

The resolution was taken up and adopted.

Mr. BRITAIN submitted the following preamble and resolutions:

Whereas, It is desirable that the business of this Convention should be completed at the earliest practicable period;

And whereas, the practice of distributing newspapers and other mail matter among members of the Convention, and the practice of reading newspapers and other mail matter by the members and others within the bar, during the hours of business, disturbs the harmony and impairs the efficiency of the Convention, retards the progress of public business, and should be prohibited by this Convention; therefore,

Resolved, That the following be adopted as one of the standing rules of this Convention:

"No newspaper or other mail matter

shall be distributed among the members of this Convention, between the opening and the closing of its sessions; nor shall any member of this Convention or other person within the bar, read any newspaper or other matter, foreign to the business of the Convention, between the opening and the closing of its sessions."

Mr. WILLARD moved as an addition to the rule proposed, "unless when long and dull speeches are being made."

Pending which, the proposition of Mr. BRITAIN was laid on the table.

On motion of Mr. COOK, the Convention resolved itself into committee of the whole on the general order, Mr. McCLELLAND in the chair.

Article —, mode of amending and revising the constitution, was considered and laid aside without amendment.

Article —, division of the powers of government.

Sec. 2. No person or persons belonging to any one of these departments, nor either of the departments, shall exercise any of the powers properly belonging to either of the others, except in cases expressly provided for in the constitution.

Mr. CORNELL moved to strike out the words, "nor either of the departments." He considered it an unnecessary repetition of the words next preceding.

Mr. HANSCOM hoped the words would not be stricken out. The first clause referred to the individuals in a department; the latter to the department itself, without reference to one or more persons.

Mr. J. CLARK—The object in view was to make it as restrictive as possible. The language was incorporated with that express view. He hoped it would not be struck out.

Mr. ROBERTSON would suggest that the provision the gentleman proposes to strike out, is a provision of the old article, which says that one department shall not exercise the duties of any other department. The other clause applies to particular persons in those departments, and it is correct.

Mr. CORNELL withdrew the amendment, and the article was laid aside.

Article —, impeachments and removals from office.

Sec. 2. All impeachments shall be tried by the Senate, &c.

Mr. SULLIVAN moved to amend by inserting after the word "Senate," the words "and judges of the supreme court."

Mr. BUSH hoped the gentleman would give some reason for the proposed amendment. In the absence of any argument, he was of opinion that the amendment would be improper. In cases of impeachment, the person removed would be liable to be indicted and tried, and come again before those judges. That no prejudice might be on the mind of the judge, it would be better to leave the section as reported by the committee—that impeachments shall be tried by the Senate.

Mr. SULLIVAN said the reason for inserting the amendment was that cases may arise in which the advice, argument and reasoning of the judges of the supreme court would be of use, especially in regard to rules of evidence and judicial proceedings. As individuals may be impeached for political offences, it is clearly proper that they should be tried by a tribunal composed in part of men having a large amount of political information. But then, in a case of that description, it is also to be considered that such a tribunal will act under the influence of strong bias and prejudice. It is important, therefore, to have a body associated with them, who are removed from the arena of politics, and who do not partake of that prejudice and excitement which influence a political body. A judicial officer may be impeached; and in that case it is peculiarly important that legal men should be associated with Senators, for questions might arise in regard to the construction of laws, the forms of judicial proceedings and the practice of courts, in which their opinions would be extremely important. Members of the Senate are elected without reference to their judicial qualifications, and it might happen to contain upon the trial of an impeachment but a small amount of judicial ability. He held that whenever an impeachment was tried, the person impeached should have the benefit of the ordinary rules of evidence, and that the practice of courts should be adhered to as far as practicable. It is, therefore, important that the tribunal for trying impeachments should be composed in part of men who are familiar with the rules of evidence and the practice of courts. In the

State of New York, the Court of Appeals constitutes a part of the tribunal for the trial of impeachments. He believed great benefit would result from the adoption of a similar system here.

The amendment was rejected.

Mr. LEACH moved to amend by striking out the following: "Before the trial of an impeachment, the members of the court shall take an oath or affirmation, truly and impartially to try and determine the charge in question according to the evidence."

Mr. L. made the motion because he wished to do away with an evil which existed and which was increasing.

There is, or at least should be, some solemnity attached to an oath; but by our laws, oaths are required to be taken on so many occasions, that no regard or attention is paid to them. If a citizen be elected to an office, however insignificant that office may be, the first thing he is required to do is to swear that he will perform the duties of the office according to the best of his ability; having performed the duty, he has to swear that it was well done. He [Mr. L.] was opposed to this great multiplicity of oaths; they ought to be done away with in numerous instances in which they are required to be taken.

There certainly was no necessity for its requirement in cases of impeachment, as far as Senators were concerned. Senators are sworn to do their duty to the best of their ability, and when acting on an impeachment, they would be acting under the obligation of that oath.

Mr. HANSCOM—There was a broad distinction between members of the Senate sitting as a high court of judicature, trying cases where the rights of the public were affected, and that class of oaths to which the gentleman from Genesee had alluded. In this case the Senate is reorganized and becomes a court to administer the laws of the land. It applies particularly to the case of an impeachment. If a case can be put, where an oath should be administered to a person having the administration of justice in his hand, it should be in cases of trials of impeachment.

Mr. LEACH must be permitted to say he did not see such a difference between Senators acting in their original capacity and their judicial capacity.

It appeared to him that there would be no more propriety in requiring Senators to renew their oath when required to act on cases of impeachment, than there would be in requiring the chief justice to take a new oath every case he tried.

The amendment was negatived.

Mr. LOVELL moved to amend by striking out the word "present," and inserting the word "elect," in the clause which provides that no person shall be convicted without the concurrence of two-thirds of the members present.

Mr. L. said he supposed a majority of the Senate would constitute a quorum for the transaction of business; if so, it appeared to him to be wrong to allow two-thirds of a quorum to convict in a case of impeachment. For the purpose of taking the sense of the committee on the subject, he proposed to amend.

The amendment was adopted.

On motion of Mr. CRARY, section 5, first line, was amended by striking out "Executive," and inserting "Governor."

Section 6 provides that the Governor shall remove any judge on an address of two-thirds of the Legislature.

Mr. J. BARTOW moved to strike out the section, for the reasons that, in the first place, it was entirely too indefinite; and, in the second place, he could think of no good reason why the Governor should be vested with the power.

An address of two-thirds of each House is required for the removal of an officer, while an impeachment may be found on a majority of one house. This shows an absurdity on its face. This provision can only apply to the judges of the Supreme Court. He [Mr. B.] entertained the opinion that the Governor ought not in any case to have power to remove a judge.

Mr. GOODWIN said proceedings by impeachment are proper and necessary in cases of corrupt conduct in office, crimes or misdemeanors; at the same time, there may be cases where such proceedings could not be had, in which it would be improper to continue an individual in office, —in case his mind should be impaired. There are many cases in which a judge might be unfit to execute the duties of his office, and unless this section were retained there would be no means for his removal.

Mr. WALKER moved to strike out the

word "shall" and insert "may." As the Governor had to be addressed, it appeared proper that he should have some discretionary power on the subject.

The amendment was negatived.

Mr. BUSH was opposed to the motion of the gentleman from Genesee, [Mr. BARTOW.] It is not presumed that an impeachment would be proceeded with against any officer unless it be for corruption in his official capacity; but in this uncertain and changeable world, a person may be competent to-day to fill any office, and he may be totally incompetent to-morrow. He may be as honest a man as ever, still he may be totally incompetent to perform the duties of his office. This section is proposed to be incorporated in the constitution to meet this contingency—that when two-thirds of the members of the Legislature believe a person to be incompetent, but not corrupt, they may address the Governor and have him removed.

Mr. BARTOW withdrew his motion to strike out.

Mr. WILLIAMS moved to insert "two-thirds of the members elect." There had been much discussion and heavy expense incurred in several legislatures, as to the meaning of two-thirds; whether two-thirds of all elected, or two-thirds of a quorum. He offered the amendment for the purpose of fixing a definite meaning to the words, and removing all difficulty with regard to the interpretation hereafter.

Mr. RAYNALE supposed the object of the section was merely to enable the Governor, during the sitting of the legislature, to get rid of a judge incapacitated for his office. It seemed to him to require two-thirds of the members elect of both houses to address the Governor in this case, was requiring too much. The matter will be left perfectly safe, in requiring the majority of the legislature to address for removal.

Mr. KINGSLEY thought it would be dangerous to leave the power of removal with a bare majority. In times of high party excitement, all the judges might be removed.

Mr. COOK was in favor of the amendment. Where the constitution requires any thing of the legislature, the language should be specific; so that no doubt could be ascertained as to the vote required. In

our present constitution, where this language is used, it has given rise to much discussion, and much time has been spent in arriving at the conclusion as to what it meant; whether two-thirds of the members elect, or two-thirds in their seats.

The amendment was adopted.

Mr. HANSCOM moved to strike out the word "address," and insert "concurrent resolution." This has been adopted in the constitutions recently revised. It has a definite meaning, and would apply to the action of a body in their legislative capacity.

Mr. BUSH was of opinion that cases might occur when it might be necessary for the legislature to exercise this power, when not in session. He knew a person in office who was struck by palsy, and his mental faculties impaired. In a case of that kind it might be very necessary that the Governor should exercise the power conferred upon him during the recess of the legislature. The power to do so, could do no harm; but cases might occur where it might be beneficial.

Mr. CRARY would ask if the gentleman supposes that, under the law as it now stands, two-thirds of each branch of the legislature may address the Governor to remove a judge, when not in session? When it speaks of two-thirds of each house, it means two-thirds in actual session. At the close of the session, the members are scattered through the State. Who is to state the case? To accomplish the object, the cause for removal should be stated at length. The gentleman is mistaken in his construction of the article. When assembled in their legislative capacity only can they address the Governor for the removal of a judge. It does not contemplate that members at home can sign an address. Mr. Morris, of New York, was removed by a vote of two-thirds of the legislature, but they were in actual session.

Mr. BUSH believed that, literally construed, the article in the constitution would give the Governor the power, and make it imperative on him to remove a judge on an address of two-thirds of the members, when not in session. He knew not what the decision of the courts might be, but such was his view of the question.

Mr. GOODWIN—A member of the le-

gislature is only acting as such, when acting with his fellow-members in session. If he signs a paper at home, he signs it as an individual. He only acts as a member when in session.

Mr. HANSCOM would add, "when in session." The meaning was well understood, but it could do no harm to insert the words.

The amendment was adopted.

Sec. 7. The legislature shall provide by law for the removal of justices of the peace and other county, township and school district officers, in such manner and for such cause as to them shall seem proper.

Mr. LOVELL moved to strike out the words, "justices of the peace," and insert "all."

Mr. BARTOW would inquire to what class of officers a justice of the peace belonged. He is elected in the township, but he is a conservator of the public peace, and belongs to the county.

Mr. HANSCOM believed the section well enough as it stood. Justices of the peace were named specifically on account of the importance of the office.

The amendment was negatived.

Mr. BRITAIN moved to strike out the first clause of section 3, which provides that the House of Representatives shall elect from their own body, three members, whose duty it shall be to prosecute impeachments.

Mr. B. said this appeared to him to be a new feature in impeachments. It might induce members to promote impeachments for the purpose of obtaining the office, and thus result to the injury of individuals. Every thing of that kind ought to be avoided, if possible.

Mr. SULLIVAN said the reason for the clause which the gentleman from Berrien [Mr. BRITAIN] proposed to strike out, was apparent. The legislature having adjourned, as prescribed in the next clause, it would be necessary that some person or persons should be appointed to present the facts to the Senate. It would be an anomaly indeed, to have a prosecution instituted against an individual, and have no person to conduct it. It has been the practice to appoint conductors of impeachments in each case. The committee were of opinion that this provision might with

propriety be incorporated in the constitution.

Mr. BRITAIN—All the cases cited by the gentleman from Cass, [Mr. SULLIVAN,] and others who have spoken against the amendment, are cases which have occurred where impeachments were tried during the session of the legislature, and where an appointment upon a committee to prosecute impeachments, only increases the labor of the persons appointed, without increasing their compensation. What would be safe in that case, might become unsafe in this case, where impeachments are to be tried after the close of the session; and the members of the committee can extend their official term, with its pay, by investigating and promoting impeachments; and I think any man ought to be able to see in it an inducement to members of the committee, to get up impeachments upon frivolous pretences, merely for the purpose of prolonging the sessions of the Senate and committee, without the least expectation of sustaining them before the Senate.

If it is desirable to try the impeachment after the adjournment of the legislature, (as perhaps it may be to save expense,) I hope at least that the committee will not be appointed until after the impeachment shall have been ordered, and should be glad to see some plan devised, by which it could be dispensed with altogether.

Mr. HANSCOM moved to strike out the words "elect from their own body three members," and insert "shall designate proper persons."

Mr. H. said he thought the gentleman from Berrien, [Mr. BRITAIN,] must see the necessity of a person or persons being appointed to conduct an impeachment. The House, it is to be presumed, will be in possession of all the facts upon which the impeachment is founded. The Senate is constituted a tribunal for trial; the person accused can appear by counsel; it is essentially a trial at law. It would perhaps be better to leave it here, so that that body may appoint.

Mr. J. D. PIERCE was opposed to the proposed amendments. It was the duty of the House to conduct the impeachment, and prosecute it to a final decision. The whole responsibility rests with the House. He [Mr. P.] should be unwilling to insert any thing in the constitution that would lessen their responsibility.

Mr. SULLIVAN was of opinion that persons belonging to the House would be the most proper to conduct an impeachment, because the persons who bring forward the impeachment are those who have made it a matter of investigation. Those having a knowledge of the facts, always will be, and always ought to be appointed to conduct an impeachment; to appoint others, who are not required to have the requisite knowledge, seemed to be improper.

Though not believing in the perfectability of human nature, he could not think it so degenerate that three individuals, selected by one branch of the legislature, should labor to pursue an impeachment that would stamp ignominy on a person for life, for the advantage of being employed a week at three dollars a day. The danger apprehended by the gentleman from Ingham, [Mr. BUSH,] he [Mr. S.] believed to be imaginary.

Mr. GOODWIN said it seemed to him to be peculiarly appropriate, in incorporating an article in the constitution on the legislative department, prescribing the mode in which they shall discharge their constitutional duties, to say when an impeachment is made by the House, they may appoint a committee to conduct it.

In the House, before an impeachment is ordered, it will be subject matter of inquiry by a committee, to ascertain the facts. When an impeachment is prosecuted, the committee to conduct the impeachment, usually, are those persons who have obtained the information and laid it before the House. They do it in the discharge of their public duty, in protecting the rights of the citizens of the State.

In view of the prosecution of the impeachment, they, of course, select those members who are best acquainted with facts, and most peculiarly fitted to present them to the tribunal appointed to try. There is a peculiar propriety in the provision as it stands in the section.

Mr. BRITAIN expressed himself not quite satisfied with the arguments in favor of this innovation, but would submit to the sense of the committee.

On motion of Mr. COOK, the committee rose, reported the articles back with amendments, and were discharged from their further consideration.

Article —, mode of amending and revising the constitution, being under consideration, the same,

On motion of Mr. BARTOW, was laid upon the table.

Article —, division of the powers of government, reported back without amendment, was ordered engrossed for a third reading.

The Convention having under consideration Article —, impeachments and removals from office, the amendments made in committee were concurred in in gross.

On motion of Mr. McCLELLAND, the article was further amended by inserting after the word "shall," in line 1 of section 3, the words "when an impeachment is directed."

Mr. ROBERTSON inquired whether there was any provision for the removal of any State officer, except by impeachment. The Treasurer might go on pocketing the funds during the recess—the Governor or any one else having no power to remove him.

Mr. SULLIVAN said the matter had been under consideration in committee. They thought it not proper to take action on it, but leave it to the Legislature. To go into the matter would require an amount of detail that would be better left to the Legislature.

Mr. WALKER moved to amend section 6, line 2, by striking out "shall," and inserting in lieu thereof the word "may."

Which did not prevail.

The article was then ordered to be engrossed for a third reading.

On motion of Mr. J. D. PIERCE, Article 1, Bill of Rights, was taken from the table.

Amendment to section 6, to strike out the word "religious" and insert "political;" the question being on concurring,

Mr. BRITAIN said—Persons have religious rights as well as political rights, and he did not know why they should not be as sacredly protected. He was aware that the term *religious* was treated with a sneer when it was proposed to be struck out; but had not the people religious rights, and was it not proper that those rights should not be impaired on account of their opinions on religious subjects? Is there any preference in the other rights? Is there not as much propriety in protecting

a man from persecution and intoleration in consequence of his opinions on matters of religion? It is important to protect him; we ought to insert "no man's civil, religious or political rights shall be impaired."

Mr. J. D. PIERCE—The object the gentleman from Berrien had in view was provided for in the article in respect to the competency of witnesses. The article under consideration had reference simply to civil and political rights, and not religious. Every man has the right, as far as religious matters are concerned, to maintain his own opinion. The word here would be unnecessary.

The amendment was concurred in.

On motion of Mr. CRARY, section 21 was further amended by striking out the word "foreigner," and inserting the word "alien."

Mr. C. said the word alien had a fixed and definite meaning, the other had not.

Mr. WHIPPLE moved to insert after the word "contract," in section 16, the words "or affecting the vested rights of private persons, or retrospective in its operation."

Mr. WHIPPLE, in offering the amendment, remarked that its object was to arrest a species of legislation which had affected, vitally, not only the rights of individuals, but which had, to a great extent, impaired the honor and credit of the State. The constitution of the United States contained a prohibition against State laws impairing the obligation of contracts. Under this provision it has been held that a law which affected vested rights was not within the inhibition unless the obligation of a contract was impaired. Vested rights were thus left to the mercy of State legislation, which knows no restraints except such as are imposed by the constitution of the United States or of this State. Why the constitutional restriction should have been limited to the protection of contracts and not of vested rights, it is difficult to imagine. While it is important that the integrity of contracts should be rescued from the grasp of unwise legislation, it is equally important that security should be thrown around vested rights.

The amendment further contemplates that all laws shall be prospective in their operation. He would not dwell upon the enormous evils which have followed in the

train of this species of legislation, which it is the object of the amendment to suppress. Those evils are familiar to all who have kept pace with the legislation of this State since the organization of our State government. A glance at our statutes affords the best commentary upon laws which purport to extend relief to one class of citizens by defrauding another. The impolicy and injustice of such legislation was so manifest that he would forbear further comment. He desired that laws should hereafter be made to regulate the future conduct of those upon whom they are to operate, and not to act upon past transactions. I trust [said Mr. W.] that we shall give a death-blow to that brood of mis-called *relief laws*, which now disfigure our statute book.

Mr. McCLELLAND—Until recently I entertained the opinion expressed by my friend from Berrien, [Mr. WHIPPLE;] but on further examination and reflection, I am inclined to doubt the propriety of adopting such provision as he proposes. The Supreme Court of the United States have decided that a law depriving an individual of vested rights was not unconstitutional, provided it did not impair the obligation of a contract. This decision gives to the Legislature of the United States and the States, where there is no prohibition, a great power, which might be abused; but from an examination of the cases that have come before our courts, I believe no evil has yet resulted from its exercise. It would be difficult to induce a legislative body to pass any such law, unless it appeared clearly that equity and good conscience imperatively demanded it. I would much rather clothe our courts with discretionary powers in reference to such cases as are usually presented for legislative interference, and should willingly go for any such provision, if it were properly guarded; but the amendment of the gentleman from Berrien is entirely too broad. Most of such laws have been enacted to cure defects in assessments and collection of taxes, and in the execution and acknowledgment of deeds. Many have doubted the expediency of the former, but few will object to the latter. There is almost an indispensable necessity in this State for the proper exercise of the power, because of the constant changes made in our general laws;

and more particularly in those relative to the conveyance of real estate; some of which I will mention, for the sake of illustration.

The revised statutes of 1838 required deeds or conveyances for the purpose of being recorded, to be executed before one subscribing witness. These statutes were in force and took effect on the 31st of August of the same year. They were distributed over the whole State, and the people had scarcely become conversant with their provisions before they were amended. On the 30th of April, 1839, the legislature changed this feature of the law, and required two witnesses to the execution of deeds; and this change, by the provisions of the general law, began to operate one month after, and long before the statute making it was published or known to those to be affected by it. The same general statutes required the acknowledgment of the wife to be taken separately and apart from her husband, and that she should acknowledge that she executed the deed without any fear or compulsion of her husband. By an act passed April 1, 1846, the legislature altered this, and required that on a private examination, separate and apart from her husband, she should acknowledge that she executed the deed without fear or compulsion *from any one*; and this law, making such a radical innovation on the well established practice of all the States, took effect immediately after its passage. Now I will venture the assertion that there are many deeds executed and acknowledged after the passage and taking effect of these laws, conveying large and valuable tracts of land in this State, that are defective, although drafted by intelligent and competent draftsmen, and who are not censurable for their ignorance of the provisions of laws, whose existence, under ordinary circumstances, they could not have known. The defects, by the decisions of our courts, are material and important. By the improper action of the legislature, the title to much of our real property is, to say the least, involved in doubt and uncertainty. The parties acted honestly and in good faith, and the intention is plain and manifest, and can there be any valid objection to the interference of the legislature and the curing of these defects. The State

has done gross injustice and should remedy the evil as soon as practicable, and I would interpose no bar to it. The legislatures of the different States have been accustomed thus to legislate, and if the facts upon which their action has been predicated are examined, I doubt whether any objection would be urged to it. A refusal to grant relief under the circumstances would be considered cruel and unjust. I hope, therefore, this amendment will not be adopted; at all events that its further consideration will not be pressed to-day.

Mr. WHIPPLE, in reply to the remarks of the gentleman from Monroe, [Mr. McCLELLAND,] observed, that he was unwilling to sacrifice a general principle, which finds its vindication in the breast of every honorable man, because in its application, particular instances of hardship may occur. The same course of reasoning would equally apply to every general law on your statute book; and yet, it furnishes no just ground for its repeal. The cases cited by the gentleman from Monroe illustrate my argument, and then, very conclusively, the injustice of retrospective laws. It is true, as was stated, that the legislature of a neighboring State, passed laws purporting to legalize the defective acknowledgment of deeds by married women, and it is urged that such laws are justified upon the soundest principles of morality. I will not stop, sir, to discuss the moral question, although I think it would not be difficult to overthrow the reasoning upon which it is based. The courts of the State of Ohio, yielding, perhaps, to the supposed hardship of the case, and the pressure of public opinion, upheld the laws in question. I think, however, I am justified in saying that these decisions were afterwards reconsidered, and the laws in question declared unconstitutional and void. The effect of such laws never fail to prove mischievous, and often oppressive.

On motion of Mr. STOREY, the Article was made the special order for Thursday, and the Convention adjourned.

Afternoon Session.

On motion of Mr. CRARY, the Convention went into committee of the whole on the Article, Legislative Department, Mr. WELLS in the chair.

Sec. 2. The number of representatives shall never be less than sixty-four nor more than one hundred, and shall be chosen for two years and by single districts; the Senate shall consist of thirty-two members, and the Senators, two from each district, shall be elected for four years.

Mr. FRALICK offered the following amendment to section 2: Strike out all after "districts," in third line, and insert "the Senate shall consist of not less than twenty-four nor more than thirty-two members, and shall be elected for four years and by single districts."

Mr. RAYNALE moved to amend the amendment by striking out "four" and inserting "two."

Mr. FRALICK said he did not propose to make a speech, but would simply give his views on the question—views which he believed he entertained in common with a large share of his constituents—in fact, he considered himself virtually instructed to go for single Senatorial districts. The committee had reported differently, and he offered the amendment for the purpose of testing the views of the Convention on the subject. He thought thirty-two members of the Senate a large number; he should have preferred it limited to twenty-four, leaving it open to extension hereafter as the population of the country should increase. The reason why he proposed four years as the term for which the Senators should be elected was, that they might be elected alternately, so that in the first instance half the districts should elect for two years and half for four years, and afterwards alternately for the full term as they now do. He hoped this and some other amendments would be engrafted in the Constitution. The evils and difficulties that exist in large electoral districts were well known, arising from the irresponsibility of Senators to their constituents. He wished to bring Senators home, and make them more immediately responsible to their constituents. Under the present system a large portion of the people are entirely unacquainted with the character or abilities of the Senators they send here.

In my district [said Mr. F.] Senators are nominated without any knowledge by the people of the character, standing or ability of the candidates; to be sure, the

convention says they are proper men; the party paper reiterates it—that of course—it is what it is paid for; but we want a different system. He trusted the convention would adopt the principle of single districts. Then every candidate would be known to a large portion of those who nominate and vote for him—they will then be acquainted with the character and abilities of those they send to the legislature to represent their interests.

Mr. McCLELLAND—The object the committee had in view in reporting this provision was to keep up the distinction between the Senate and the House. If the views of the gentleman from Wayne were adopted, he [Mr. McC.] saw but little necessity for a Senate, and it might as well be merged in the House, as had been proposed by one of the delegates. This had been tried in Vermont and Pennsylvania, and proved so unsatisfactory as to be speedily abandoned.

The design of a Senate is to act and operate as a check upon the House, and to preserve the conservative character of the Legislature. Hence the necessity of its members representing a larger territory and different constituents and interests from those of the House. Take, for example, the county of Wayne, represented in part by the gentleman who made this motion. You have adopted the single representative system, and according to the probable ratio under the next census, that county will be entitled to two Senators. It is true the boundaries of the representative districts will be more confined and less extensive—but when you take into consideration their associations, business transactions and political relations, it will be difficult to conceive how their interests, feelings or views can differ. The Representative, although elected by a portion of the county, will be practically the representative of the entire county as well as the Senator, and will be as zealous in maintaining its rights and interests. If any excitement prevails, the Senator will be operated upon by and partake of it, and its influence will be equally felt by both. Add to this the election of the Senator and Representative at the same time and for the same term, and you destroy another important feature of the Senate. That this will be done is likely, because it may be considered bad pol-

icy to elect the Senators for four years and classify them, inasmuch as then one half of the districts would elect Senators every two years.

The only material difference that will exist between the Senate and House will be the forms and proceedings upon bills and resolutions passing from one to the other. When the Representatives and Senators represented different territories, different constituencies and different interests, the measures proposed by one house were generally severely scrutinized by the other, and thus much hasty and immature legislation was prevented. But such will not be the case when their objects and aims are the same. The Senate, constituted as it usually is, is not so apt to yield to sudden impulse and passion; and its experience and knowledge of business and the principles of legislation fit it most admirably for the prevention of the evils that often result from the want of those qualities in the House.

Mr. Madison says, "A Senate, as a second branch of the legislative assembly, distinct from, and dividing the power with a first, must be in all cases a salutary check on the government. It doubles the security to the people, by requiring the concurrence of two distinct bodies in schemes of usurpation or perfidy, where the ambition or corruption of one would otherwise be sufficient. * * * * As the improbability of sinister combinations will be in proportion to the *dissimilarity in the genius of the two bodies*, it must be politic to *distinguish them from each other by every circumstance* which will consist with a due harmony in all proper measures, and with the genuine principles of republican government."

If you adopt the single senatorial district system, you will find great and perhaps insurmountable difficulty in preserving your counties entire and preventing divisions, and at the same time giving a full and fair representation. It would not only be bad policy, but few of the people would submit to a division of their counties and the attachment of a part to another county for the purpose of forming a senatorial district. If the gentleman's county [Wayne] has a large fraction, will its people be willing to detach a portion and suffer it to be united to another coun-

ty? or will they be disposed to lose all representation for that fraction? Again, will the inhabitants of that portion willingly consent to sunder all the political ties and business associations which connect them with their own county, and be thus far separated from it? I doubt it. It will certainly introduce confusion and a state of things by no means desirable. If gentlemen would reflect upon the embarrassments surrounding this system, they would hesitate long before they would adopt it permanently.

The gentleman from Oakland proposes to reduce the Senatorial term from four to two years; and if the single district system prevails, it may be adopted. Your object should be to give experience to one or other of the houses, and the committee conceived that the term proposed in the article was not too long, and would have a salutary effect. If you examine into the causes of much of the legislation that has been complained of, it will be found to be the result of inexperience. Experience and practice are as necessary in this, as in any other profession or avocation of life; and it is usually a guaranty against unwise, improvident and extravagant legislation. Fraud and corruption may have been practiced, but it would at least be more charitable to ascribe it to this cause. You may send into the legislative halls the most talented and upright men in the community, and if they are not conversant with the business of legislation, they are liable to be imposed upon until they gain experience, which is often dearly bought by them and their constituents. Gentlemen may argue that the people can re-elect a member, and thus be benefitted by his knowledge; but rotation in office has become so popular, that even now it is exceedingly difficult to elect a member two years in succession; and it would be far more so if the two terms were four years. If you elect the Senators for four years, and divide them as proposed into two classes, and choose one-half every two years, you will always have a body of experienced men on whom to rely. If they are such men as should be there, the people need not apprehend any hasty or improper legislation; but if inexperienced men are sent, no matter how pure the motives by which they are governed, much bad

legislation may be expected. You must guard against the "out-siders" and the tricks of legislation; and this requires much tact and an intimate knowledge of parliamentary proceedings.

He [Mr. McC.] was in favor of single representative districts, so as to bring that body as near as possible to the people, and to make it a fair exponent of their views and opinions. But the Senate ought to be differently constituted. There was no system superior to that under the constitution of the Union; of course, he did not contend for the same principle as to territory and population, but the Senate of this State should possess most of the characteristics of the Senate of the United States. There you find experienced men, practised in all the arts and forms of legislation, conversant with the history of the country, and knowing its wants. The House often throws into that body ill digested measures, but they seldom escape the ordeal to which all things are there subjected. Hence the reason of there being so little immature legislation in Congress. Try the single representative system, but carry it not into the Senate.

Mr. FRALICK—This section provides for two members in a district. By a clause in the fifth section, no county shall be divided in the formation of Senatorial districts; in which case a large portion of the county of Wayne will be disfranchised. With a Senate of thirty-two members, the county of Wayne will be entitled to three Senators. What shall we do with the excess over two? We cannot give them three, and a large number will be unrepresented.

Mr. McCLELLAND—Will the gentleman allow me to interrupt him? At the first session of the legislature, the apportionment must be made. The construction heretofore put upon this clause by the legislature was, that they make the division as near as practicable, according to population. The ratio, if you base your calculation on the last census, will be about fifteen thousand; but some districts will have a smaller population than others. If the fraction be large, they will have a Senator; if small, they will not; if more than one-half of the ratio established, you will be entitled to a Senator; if less than one-half, you will not.

Mr. FRALICK—The matter is not yet

clear to me. If a district were entitled to three Senators, they must either take four or two.

Mr. McCLELLAND—My view was, that we should give four Senators to a district. The committee reported two, and adopted the present ratio, founding it on the last census; under that enumeration the county of Wayne would be entitled to two Senators. As to the number of Senators, the committee thought it would be best to make it permanent, so as to dispense with further legislation upon it. The gentleman can easily obviate the difficulty he anticipates, by moving to amend the last line of the section by inserting the words "at least" before "two," so that the same will read, "at least two from each district."

It was [said Mr. McC.] the opinion of those experienced in legislation, with whom he had conversed, that the Senate ought to be increased; that it would be more efficient and do better service to the State, and that its respectability, dignity and usefulness to the people themselves would be greatly increased.

Mr. BRITAIN offered a substitute for the amendment offered by Mr. FRALICK. Add to section two as follows: "and by double districts; Senators after the first election under this Constitution to be elected from each half of the district alternately."

He [Mr. B.] was aware that this would be received as a novel proposition; it had, nevertheless, not been offered without consideration.

The object of his amendment was, if possible, to meet the wishes of both those who desire single districts and those who wish to maintain the conservative character of the Senate. The last was by many deemed an important principle in the construction of an elective government, and one that ought not to be surrendered. Mr. B. did not know how this could be accomplished and elect by single districts, because all will be elected at the same time; and you will have a new House and a new Senate at the same time, unless you elect Senators for four years; and to secure experience to that body, elect one-half of them every two years, in which case the electors of but one-half of the Senatorial districts could vote at any Senatorial election. This

would be an anomaly in the history of elective governments calculated to destroy the purity of elections by colonizing voters from one district into the other, and one to which he thought the people of Michigan would be unwilling to submit.

The objections to the election of more than one Senator from a district, were,

1. That it did not secure to the respective parts of the district a representation.

2. That it gave great inducements for the exercise of bad faith by one part of the district towards the other.

His amendment removed both of these objections. It removed the first objection by securing to each portion of the district its representation almost as effectually as single districts could do; and it removed the second objection by compelling both political parties to select their candidates from the same portion of the district.

Would he be told that the treachery of one part of the district toward the other was not to be expected, and need not be provided against? Persons who could think so had observed the operations of our political machinery to no purpose. He had never seen an election in a district furnishing two or more members without more or less of this bad faith, so generally denominated "bargain and sale;" and what was most mortifying to an upright man was that it was an exercise of treachery, which could not be punished, and one which was frequently rewarded. Did he say it could not be punished? The only way in which the treachery of one part of the district upon the other can be punished is by excelling it in treachery; and the system of electing two or more members from one district, without assigning to each portion of the district its member, is nothing less than placing before the electors of a district an inducement to exceed each other in treachery; and it is the moral duty of this Convention to remove, so far as practicable, all inducements for a practice so pernicious in its effects upon the tone of moral sentiment, and so destructive to that confidence between the different portions of a district so essential to its harmony and well-being.

He was aware that this would be considered a new proposition, and should not be disappointed if it should be rejected by the Convention; but our system of gov-

ernment was recently but an experiment, and the business of this Convention was to introduce reforms; and whether this Convention adopt this reform or not, he had no doubt it would be ultimately adopted into the elective system, or the election of two or more members from one district abandoned altogether.

Mr. HANSCOM moved to strike out all after the word "members," in the amendment; which did not prevail.

Mr. CHAPEL moved to amend the section by inserting between "Senators" and "two," the words "at least;" which did not prevail.

The question recurring on Mr. FRANKLIN's amendment, it was negatived.

Mr. BUSH moved to amend by striking out in the third line the word "two," and inserting "one," and to strike out "four," in the fourth line, and insert "two."

Mr. MOORE moved to amend by striking out "two," in the third line, and inserting "three."

Mr. M. said he considered himself instructed on the subject, and submitted the amendment to the consideration of the committee in good faith. In the west the people were in favor of triennial sessions; they believed the State had been afflicted with so much legislation, that it might not be amiss to go into triennial sessions as a means of remedying the evil.

Mr. BUSH had hoped that some other gentleman, some delegate representing some other portion of the State, would have offered the amendment he proposed, but finding that would not be done, he felt it his duty, though fully aware of the strong expression in favor of biennial sessions, to rise in his place and give his views against the measure. During the course of his political life, he had advocated every principle, if he rightly understood it, that brought power nearer the people. He was one of the first members of the Michigan legislature that proposed the election of judges by the people. He had always, as a member of the legislature, advocated, as he hoped he always should, the rights of the people, and the immediate responsibility of all constituted authorities to the people.

But, sir, [said Mr. B.] what are we about to do? A report has been made unanimously by a large and respectable

committee, shall I say to retrograde, or shall I use a milder term? In the exercise of an enlightened and progressive public opinion, the people have taken to themselves the power to elect their judges. That is in accordance with a movement to bring power nearer to the people that they may control it. But what is the character of the report of the committee? Is it in accordance with that movement in the public mind, that delegated power shall be under the control of the people, and be returned to their hands at short and stated periods—or is it to double the power in the hands of one department of the government, placing it beyond the reach and control of the people for a long period of time? And for what purpose—under what pretence is this new feature to be stamped on the fundamental law of the land? To save a few dollars and cents.

It is true that in the State of Michigan excessive legislation has been complained of, and the expense has been great. Men were sent to the legislature who were anxious to promote the public good, but some laws not wise have been enacted. One of the principal objects for which this Convention is assembled is to correct those evils—to lessen the expenses of legislation, and, if possible, to give more stability to our laws; but in attempting to accomplish those objects, let us not sacrifice the rights of the people and open wide the doors for fraud and speculation in another department. Look, sir, at the executive department of the United States. Have not all the abuses grown out of the executive department of the government? Have not great trusts been violated and the rights of the people jeopardized by the executive? Look at the history of our own State, and the archives of our own government—examine them carefully and you will find that all the abuses that have been practised on the State have grown out of the executive department, while you cannot put your finger upon the first abuse perpetrated by the legislature. What are we about to do by changing from annual to biennial sessions of the legislature? We are about to limit the action and lessen the efficiency of a department the least likely to abuse, and close from the public eye, seal up from all means of investigation for two years, the transactions of a

department most likely to abuse their power, where frauds may be the most easily practised and which most requires the vigilance of the public eye upon it. This, sir, we are about to do. Let corrupt officials get into that department, under a corrupt or inefficient executive, who may perpetuate his power for two years more. Is there any power to check or even detect abuses in that department? Frauds may be committed in the treasury—it may be Galphinized, and all knowledge of the facts be kept from the public. There is no tangible way by which you can call the heads of departments to account, by which you can ferret out abuses and put the seal of condemnation on the perpetrators of fraud.

It is conceded by every one, that when power returns more frequently into the hands of the people, it is least liable to abuse. When gentlemen are thus about to exclude the people from all control over one of the most important departments of government for two years, I ask them to pause before they thus retrograde and take that power from the people given to them by the constitution. But, sir, is there no other way of effecting retrenchment, without affecting the rights of the people, and cutting them off from looking into the affairs of the government frequently? I believe there is, and will explain my views, by which I think it may be effected.

To-day I heard fall from the lips of a delegate that we have had the most rascally system of government—that we have had the most rascally legislation—enough to damn any State in the Union. But what are the facts? The State went into existence on a paper bubble, the wandering meteor of the times; in the first stages of our political existence we came under the influences of the greatest speculative mania that ever affected a people; we have gone through the ordeal of an expanded currency that perished on our hands, and have suffered from the collapse; yet, sir, with all these drawbacks, Michigan stands up in bold relief—she is not ashamed to compare notes with any of her sister States.

Was it to be expected that we should escape, inexperienced as we were, from those disorganizing influences? We have suffered from immature, hasty, and ever changing legislation; but the people have

taken it into their own hands, and justice will be done. It is the cause and effect. So will it ever be when the people can look into the offices of the State, and can do so annually.

The State of Michigan has had long and expensive sessions of the Legislature, but the State has grown up rapidly. When the Convention met fifteen years ago, Michigan was but little known. There are more than twenty delegates on this floor from territory then totally unknown; and yet, we are only on the frontiers of civilization. Our destiny is not yet developed. Our government, in its first organization, had to attend to the wants of a new country, and every request, whether in regard to general or local interests, was presented to the Legislature—every local or township matter must go to the Legislature, and go through the paraphernalia of legislation. But sir, the experience of the country shows that power may be safely exercised by the people; and we propose to leave a larger share of power in their hands. We propose to give to the boards of supervisors all local legislation—it is in accordance with the spirit of the age—the country demands it—it brings the business of the people nearer to the people, they can check any thing wrong and nip it in the bud.

Carry out that principle, and you take from the Legislature four-fifths of the duties heretofore devolving upon it.

Have former legislatures violated their trust? Have they come here and idly spent their time? I appeal to the records of the State, and can say they have not wasted their time; but that during the sessions they were engaged fully in going on with the system of local legislation absolutely demanded by the people. It is now proposed to cut off local legislation, leaving it more immediately in the hands of the people. Take out of the hands of the legislature those township and county matters which can be better done by the boards of supervisors, and the session may be limited to a short period. I [said Mr. B.] will go for limiting the session to thirty days, and the per diem allowance to two dollars; but I will never record my name on the records of my country in favor of a measure, the operation of which will be to close the public eye on the executive de-

partment of the State. Make the sessions of the legislature as short as necessary—and long sessions will not be necessary, provided local legislation be taken from the legislature—but I want the legislature to assemble annually, to examine and deliberate on the affairs of the other departments of the State, so that fraud and corruption may be stayed and the public interest promoted.

Now, sir, before this step is taken, I ask gentlemen to provide some remedy. I ask them, before they remove this safeguard and protection to the public treasury, to make the Executive and State Officers amenable to some body of men, some committee, that can analyze the reports of the public officers, and examine the affairs themselves.

Power that is delegated for a long period is universally abused.

Look back, sir, to the history of the organization of the government of the United States, and the opinions entertained by many of the patriots of that day, relative to what they termed a strong government. They considered it dangerous to the stability of the government to leave power in the hands of the people. They thought it necessary that a President should be elected for life, and Senators for life. They established the practice of appointing judges for life. But who entertains those opinions now? They have vanished before the light of the present day; they have melted before the sun of truth.

Little did I expect, Mr. Chairman, to see those ideas again presented in the State of Michigan in the year 1850.

I hope the chairman who reported this provision will explain to us how we can get a peep into the departments, and call the officers of the State to account, more than once in two years. I am open to conviction; but when I know that a certain impetus has deranged public opinion—when I see my friends contemplate the perpetration of something wrong—if I believe myself right, I shall be ready to confront even the artillery of heaven in opposition to measures fraught with bad or dangerous consequences.

Mr. Chairman, if the chairman of the committee, or any other gentleman, will explain to me how we can get at the information necessary to be had, and that it

is proper to delegate power for so long a period as it is proposed to be delegated; if they will explain it satisfactorily, and if they can satisfy me it is just as safe, I am prepared to go for it. But for the purpose of saving a few dollars and cents, I will not violate a principle.

The question was taken on Mr. MOORE's amendment and lost.

The question recurring on the amendment of Mr. BUSH, it was taken and lost.

Mr. S. CLARK moved to strike out the word "two," in the fourth line, and insert "one."

Mr. C. was in favor of single senatorial districts. Without going into an argument at this time to sustain the views of his constituents, which he believed to be unanimous, he offered the amendment.

The amendment prevailed.

Mr. BAGG moved to strike out in third line "and by single districts."

Mr. B. said he had not intended to trouble the committee with any remarks of his; but when he saw the innovation about to be made, which he believed was not called for, and which he believed to be contrary to the spirit and genius of our institutions, and calculated to injure the masses, he could not let it pass without at least having the gentlemen bringing forward this proposition, give the reasons inducing them to make this innovation.

Sir, [said Mr. B.,] this whole nation is composed of parts—states, counties, townships, &c. Sir, the whole contains the parts, and the parts go to form the whole. This Union is one grand circumference with a centre in the affections of the people. The states of which it is composed, the counties and towns, are made up of other little centres. He had always supposed the great bond of union which held the nation together, not only as the whole, but relatively to the States, counties and towns, was the great law of association.

Sir, these little district systems, breaking us up, creating minute distinctions, is calculated to hurt the masses, to give the cent. per cent. men—the almighty dollar, if you please—which has ever been against the intellect, to give them undue power.

The gentleman from Monroe, [Mr. McCLELLAND,] and my friend from Wayne, [Mr. FRALICK,] are agreed with regard to

the district system for Representatives. My friend from Wayne is for dividing it "down—down—derry down." He is at least consistent. But while the gentleman from Monroe is for single districts with regard to the House, he is for double with regard to the Senate. I had supposed that this was an age of progressive democracy, with our steamboats and electric telegraphs—that we should not at least contract down our senatorial districts to an unit—that with all this intelligence we should have enlarged our senatorial districts, that each man might be acquainted with the whole Union.

The Congress of the United States has been sitting a long time in Washington to compromise a question that has broken up the laws of association, and almost broken the body politic into its original elements. Sir, the gentleman from Ingham has just told us that you are going to carry down to the people all local legislation, and give it to the supervisors. Such I believe is the spirit. Then is there any necessity for creating another little circle along side the supervisors? Look at it—what is the member of Assembly? In how many relations does he stand to the nation, the state and the county? Frequently he stands in particular relation to the Union, at other times to the state, and at other times to the county. Does not he in the legislature assist to make laws for the state and not for the county? Where did you ever hear a man swear to support a county, a town, a ward, a city or village? The wisdom that has gone before us made him take the oath to support the constitution of the United States and the constitution of this State. Sir, I am in favor of a large extension of our large circumferences corresponding with our large progressiveness. I am not for contracting down in this manner.

Again, sir, it is a sacred principle in our government, that majorities shall govern, unawed by dollars or any influences. Happily, the democracy of the State has been triumphant. It is the banner State, and every man has been proud of it. But divide up its people and where will be the predominancy of the masses. These local divisions will necessarily create laws to correspond with them. Laws should be simple and uniform, but they will create imperious distinctions adverse to the masses.

I have said the masses should govern. Here instead of having a general ticket for a county, does it not comport with the experience of members that you will have eighteen or twenty towns separated by different interests; some ten or fifteen of those towns affiliated together will destroy the union. How has it been when we have had three or four candidates up for the Presidency? How when we had three candidates for Governor? A nobody may come in and counteract the wishes of the people. Nothing can be calculated so disadvantageous to the masses as the district system.

I had not intended to say anything on this subject to day, but I could not let it pass without throwing out some views with regard to it. I consider it an innovation. I have not heard of a single petition being presented in favor of this single district system. Perhaps I may be told that my constituents want it; if so I should expect at least one petition in favor of the innovation. I shall perhaps be told that this innovation is necessary, from packed conventions. So far as Wayne was concerned, it was the district system that was complained of.

Mr. Bagg concluded by expressing his strong disapprobation of the district system. He would sooner vote on a general ticket, as being more in harmony with the sacred bond which unites the people as one nation.

Mr. COMSTOCK believed the prevailing opinion in the county he represented was in favor of single districts. The argument of the gentleman from Wayne had not convinced him. He was in favor of single districts both for Representatives and Senators, because it would bring power nearer the people.

Mr. FRALICK said the citizens of the State at large had so clearly expressed their opinions on this subject, that it was a question requiring but little discussion on that ground. If the opinions of his colleague had been published before the election, his constituents might have been enlightened. Perhaps if the gentleman had expressed his views before the election, he might not have had an opportunity of enlightening the Convention. The gentleman was mistaken when he said no petitions on the subject had been presented.

He [Mr. F.] had presented one in favor of single districts signed by four hundred and fifty persons.

Mr. BAGG said he had never made a secret of his opinions on the subject, but his associations were about the city of Detroit, the gentleman's [Mr. FRALICK's] about the town of Plymouth. The two atmospheres were different.

The question was taken on the motion to strike out "by single districts," and lost.

Mr. SUTHERLAND moved to amend section 3, by adding at the end, "each organized county shall be entitled to at least one representative."

Mr. McCLELLAND said the subject had been under the consideration of the committee, and it might appear strange that they had not adopted that clause in the old constitution. The reason was, they thought it would be improper and unjust to the rest of the State to have a representation neither based on population or taxation. That it would be improper if the basis was fixed on 5,000, to give a representative to 500 or 1,000, merely because the country was organized.

Mr. LOVELL was in favor of the amendment proposed by the gentleman from Saginaw. He could not be satisfied with less than the liberality of the old constitution. New counties will not go into organization until they have acquired a considerable amount of population; but they may before they have attained the requisite number fixed as the basis, and before five years shall expire. Those new counties are increasing in population most rapidly; under all the circumstances it would be proper to treat the new counties with liberality.

Mr. HANSCOM hoped the amendment would not be adopted. A moment's reflection would convince any member that the most gross injustice would be done to the population of Michigan by the adoption of the amendment. It is not geographical territory we seek to have represented, but individuals—numbers.

From what information he could get, with regard to the population of the counties recently organized, a ratio may be fixed, by which one-fourth of the population would have at least one-half of the representation. Such a proposition as this must be unjust; it would practically dis-

franchise the more populous counties. In the Lake Superior region there are four counties organized; only one or two of those counties were populated, and those with only one or two hundred inhabitants. So in the upper peninsula.

The report of the committee was more just. The enumeration will be had every five years, and a new apportionment made. It would not be likely that in that time any large portion of the people would remain unrepresented.

Mr. McCLELLAND would suggest to the gentleman, to add to his amendment, "provided the population exceeds half the ratio established by law."

Mr. SUTHERLAND—The proposition is not to do injustice to the old counties, but justice to the new. He believed there was so much justice in it as to commend itself to the Convention. The question was one affecting his constituents more than any other that could come before the Convention. They are increasing in population every year, and when organized they require to be heard in the halls of legislation; and their population increases so fast that they will soon come up to the ratio of the apportionment. There are some counties having a population a little under the ratio, that may be cut off. There are some having a smaller population, which are filling up with emigrants, and which ought to be represented. Are they not entitled to be heard as well as other counties? Allow other counties to have a greater number of representatives, but do not silence their voice. Do not entirely exclude them; let them have one representative. If the ratio be fixed so as not to give the old counties a sufficient number, increase that number. Allow the new counties one vote—one member—and the others a multitude.

Mr. CHAPEL offered the following as a substitute: "Every organized county containing 2,000 white inhabitants, shall be entitled to one representative."

Mr. J. CLARK—This is an appeal from the new counties commending itself to the good sense of this Convention, especially as it regards the lower counties. It must be admitted that the old counties are fully and ably represented. That their interests must from necessity be well taken care of and provided for. They are surrounded by all the means of obtaining informa-

tion; while the inhabitants of the new counties are shut up by bad roads and the want of facilities, and almost excluded from every means of information. If they are not allowed some individual to represent them, how are they to have their wants made known. It may be said they may be joined to other counties; but where that has been the case it has resulted in no advantage. The counties which have the largest population will retain the power, and will have their own representative. He believed Ionia, and some other counties, though attached to others for representative purposes, had never had a voice in the legislature. If those facilities which other counties have obtained were granted to our new counties, they would sooner be filled up. The reason why they have not settled so soon, has been for want of legislation. They had no voice, no one to represent or advocate their interests.

The public money has been disposed of to the old counties while the new counties have been entirely disregarded. They received no part of the appropriations made for roads or other public improvements. If they had been represented in the legislature, they might have received some attention. Representatives from those counties would be able to give information relative to their resources, and direct emigration to them.

He [Mr. C.] had been over our northern and western counties, and he knew the land to be naturally as fertile and as capable of cultivation as our more southern counties; there is not, perhaps, a better portion of country for emigrants to settle in. It is especially adapted to those coming from the north of Europe and our northern States.

In the first Convention, this appeal was made to the sense and liberality of the Convention. They very readily extended to new counties the privilege of being represented in our legislature. The county of Chippewa did not at that time contain three hundred persons. Perhaps to the introduction of a member from that county and to one from Mackinaw into our legislature, we owe the discovery of those minerals which add so much to the wealth of the State. They brought to the legislature that knowledge which led to the en-

terprise which is likely to be productive of great wealth to the country.

Mr. C. concluded by expressing his hope that representation might be extended to those counties; that their voice might be heard. It would be beneficial to those counties and could do no injury to the other more populous portions of the State.

Before the question was taken, the committee rose, reported progress and obtained leave to sit again.

On motion of Mr. COOK, the Convention adjourned.

TUESDAY, (14th day,) June 18.

Prayer by the Rev. Mr. ATTERBURY.

PETITIONS.

By Mr. HANSCOM: of Randolph Manning and 90 others, citizens of Oakland county, on the subject of the judiciary.

Referred to the committee of the whole.

By Mr. COMSTOCK: of Israel Pennington, John H. Osborn and 233 others, of Lenawee county, praying that the elective franchise may be extended to colored persons of this State; and that the word "white," be rejected wherever it occurs to the prejudice of colored citizens.

Referred to committee on the elective franchise.

By Mr. KINGSLEY: of 200 citizens of Washtenaw county, praying that the elective franchise may be extended to colored persons in this State.

Referred to committee on the elective franchise.

By the PRESIDENT: of Wm. P. Patrick and 9 others, that provisions may be made in the revised constitution for the location of the office of Adjutant and Quarter Master General and of the State Armory at the seat of government.

Referred to the committee on the militia.

RESOLUTIONS.

On motion of Mr. LEACH,

Resolved, That the State Printer be instructed to forward by mail one copy of the debates in the Convention to each newspaper in this State.

On motion of Mr. COOK,

Resolved, That there be allowed to the Secretaries of this Convention three dollars per day each, to the Sergeant-at-Arms and

Door Keeper three dollars per day each, to the Messengers one dollar per day each.

On motion of Mr. McCLELLAND, the Convention then resolved itself into committee of the whole and resumed the consideration of the article on the Legislative Department, Mr. WELLS in the Chair.

Section 3 being under consideration, and the question being on Mr. CHAPEL's substitute for Mr. SUTHERLAND's amendment,

Mr. McCLELLAND said he would now answer the inquiry of the gentleman from Kalamazoo, [Mr. S. CLARK,] in regard to the organization and population of the new counties, made on yesterday.

In respect to the new counties, he took it for granted that those now organized would come in and be entitled to all the privileges and immunities of the older counties.

The language in regard to the county of Sanilac was, "that the county of Sanilac, including the territory annexed thereto in the preceding section of this act, shall become duly organized, and the inhabitants thereof entitled to all the rights, privileges and immunities, to which by law the inhabitants of other counties of this state are entitled, from and after the thirty-first day of December, one thousand eight hundred and forty-nine." From that date it was an organized county.

Marquette, Houghton, Ontonagon and Schoolcraft were organized by the same act, the title of which was, "an act to organize four counties in the Upper Peninsula, and define the boundaries of the same." Approved April 3, 1848.

In regard to the population, Mr. McC. said he had no means of arriving at a near approximation, as some of them had held no election, and there were no returns in the office of the Secretary of State, except where they were attached to other counties. In the county of Chippewa, in 1849, the number of votes given for governor and other officers, was ninety-eight. Allowing ten inhabitants to each voter—and this he considered rather an over estimate—it would give to Chippewa a population of nine hundred and eighty.

In Clinton, the number of votes polled was five hundred and forty-eight. By the same estimate, this gave a population of five thousand four hundred and eighty. In Mackinaw the number of votes was two

hundred and seventeen—this gave a population of twenty-one hundred and seventy. In Ottawa the number of votes was three hundred and thirty-eight—this gave a population of thirty-three hundred and eighty. In Saginaw, three hundred and fifty-one—this gave thirty-five hundred and ten inhabitants. In Houghton, at the recent election, the number of votes was one hundred and twenty-four, and that included the counties of Marquette, Ontonagon and Schoolcraft—which gave a population of twelve hundred and forty.

From Gratiot, Tuscola, Newaygo, Midland and Sanilac, he had no information on which to base a calculation.

Mr. SUTHERLAND said he did not desire to trouble the committee with many remarks, but the importance of the subject to his constituents induced him to offer an expression of his views, founded in part upon facts, which all might read and ascertain to be correct.

It seems fair [said Mr. S.] that the northern counties should have a representation commensurate with the amount of taxes they pay, as compared with those paid by counties where greater population entitles them to a plurality of representatives. The population of these new counties should not be taken into account as the *sole* ground of representation in adopting a permanent rule, as in the constitution of the State. If there is a liberal feeling pervading this body, and a disposition to extend to northern enterprise and improvement every encouragement not incompatible with the rights of other portions of the State, I am persuaded there will be reason for making an exception in their favor. Allow me to read to this committee a statement of the total valuation of real and personal property, returned in 1849, to the office of the Auditor General, from several of the older counties, which I have selected in every quarter of settled Michigan, for the purpose of exhibiting as far as possible an average of the amount of property to each delegate.

Counties.	Valuation.	Del.	Am't. to Del.
Calhoun,	\$1,435,613	5	\$287,123 60
Kalamazoo,	812,850	3	270,950 00
Oakland,	2,276,265	9	252,919 00
Genesee,	744,577	3	238,192 00
Eaton,	399,179	2	195,598 23
Livingston,	690,745	4	172,686 00
Saginaw,	344,919	1	34,919 00

These returns are made to the State office by officers in the respective counties, and they constitute the basis on which the State tax is apportioned. It will therefore be discovered that Saginaw county will pay considerably more than her proportion of the expense of this Convention, according to her representation. Comparing the statement of taxable property returned from Saginaw county with that returned from Livingston county, we see an unjust disparity between the representation apportioned to the two. Saginaw pays half as much of the taxes, with only one-quarter of the representation given to Livingston. Is this fair? Is it just and equal, aside from any considerations of liberality towards this younger county? It cannot be said that Saginaw has been selected for the purpose of exhibiting a stronger contrast. Ottawa might be cited with greater advantage, because this county has the same representation, and the amount of property returned exceeds that from Saginaw by many thousands of dollars.

Will it be said that representation should not be apportioned according to property? The claim upon this basis is not new; it is one of the political axioms of the American people, that representation and taxation go together. It has been fought for, established and sanctified by the patriots through whose sacrifices of blood and treasure we now enjoy the precious birthright of civil liberty. There is another consideration entitled to great weight in deciding the question now before the Committee. The northern counties are rapidly increasing in population—not barely keeping pace with the other counties further south, in more favored portions of the Peninsula—but their population is increasing with *unparalleled* rapidity. The only means of exhibiting the proof of this fact is, by referring to the vote given in the several counties during the last two years. The following is a table prepared from returns in the office of the Secretary of State, showing the electoral vote given in 1848, and the vote for Senators in 1849:

	Elec. vote in 1848.	Sen. vote in 1849.
Macomb county,	2398	1929
Kalamazoo,	2386	1788
Oakland,	5417	4517
Berrien,	2208	1533
Lenawee,	4853	3790

	Elec. vote in 1848.	Sen. vote in 1849.
Branch,	2149	1793
Saginaw,	337	369
St. Clair,	1481	1533

The election in 1848 was more important, and called forth a larger vote than in the following year, where the population was the same. Allowing that there was the same interest in the election in one county as in another, there must be some reason in the supposition that in Saginaw and St. Clair there has been a rapid increase of population. There has, without doubt, been an increase in all of the counties, but not sufficient to prevent the election returns presenting a decrease in the number of voters. Why should the rule be reversed in the northern counties only, especially as in these new counties there are more obstacles in the way of attendance at the polls. The full extent of the increase in Saginaw is not to be seen from election returns, the greater part of the immigrants being foreigners. There has been an accession to the number of inhabitants in that county, within the last two years, of nearly one thousand Germans. Then, taking it for granted that there was in 1849 eight inhabitants to every voter, as is doubtless the fact, in Saginaw county there would then be only 2,952. But, small as this number appears, there must have been a prodigious increase from 1845 when the census was taken, as at that time there were only 1,218 inhabitants.

These foreigners are a deserving class of men—they have an honest purpose in locating in the retired portions of the county. They are quiet, industrious and persevering adventurers. They go into the forest where Yankee enterprise has never made its way—they go where no roads have been opened, settle down, and soon, as if by magic, the forest is removed and small farms, under excellent cultivation, teem with abundant crops. They bring, as a general thing, a fair supply of money, of hard currency, which they have used there, and to good advantage, until it has passed into a proverb that "there is money at Saginaw." These men are willing to pay taxes, and it is fair that they should be represented.

Some are opposed to the amendment under consideration, because it is alleged that

in paying mileage from the Upper Peninsula, great injustice is done to the older and more populous parts of the State. The soundness of this argument does not very clearly appear, when we consider the disparity that now exists in the ratio of taxation and representation. Mr. S. said he appeared not as the advocate of the Upper Peninsula particularly. That section is now ably represented on this floor, although the delegates are not to-day in their places. It may be thought best to combine in one district the four counties near Lake Superior for representative purposes. There are only five newly organized counties in the Lower Peninsula, and none of them, so far as he had been informed, have as yet perfected a county organization by the election of county officers. The increase of population is so great that there would not be more than one instance at a time, of a county sending a representative without that number of inhabitants, that under the next apportionment would entitle them to at least one member of the legislature. The expense, too, of organizing a county and sustaining it, and erecting county buildings, will be a sure guarantee against any abuse of the constitutional right, for it can hardly be conceived that a small number of tax-payers would be so forgetful of their real interests as to incur so much expense for the sole purpose of sending one representative.

If, as has been proposed, the new counties are allowed a representation only when they have half of the number of inhabitants required under the apportionment, where is the liberality? Every county in the State gets an additional representative in all such cases. Is there in such a provision anything that deserves to be called liberal? It is hoped that something that is liberal, in the true sense of the word, will be agreed to.

Mr. J. BARTOW said, while a difference of opinion might exist among members in regard to the rule of representation to be established for the new counties, he could not believe that any wish, or desire, to deprive them of an equal and fair number of Representatives, was felt by any member of the Convention.

A different rule from that applied to the old counties should be made with respect to the new. They were situated different-

ly; comparatively cut off, and not surrounded by contiguous territory having every interest well represented in the Legislature. Every one [said Mr. B.] must see the importance of giving a fair and just representation to the Upper Peninsula; the great mineral wealth and other extended interests of which were just beginning to attract the attention due them. It would be extremely harsh and unjust to say the counties north of Chippewa should not be represented because their population was a little below the ratio established for the older counties.

There was another consideration which ought to be taken in view. If biennial sessions of the Legislature were decided on, some of the new counties now having a population below the ratio fixed, would exceed it in a year or two, and yet could not be represented until the next apportionment—1855.

A large quantity of the produce of the surrounding country found an avenue to market through Saginaw, and the interests of those producers depended much on the disposition and welfare of that county. Mr. B. hoped such a rate would not be established as to deprive Saginaw county of a Representative. He believed the system of representation now existing to be fair, and such as would be satisfactory to the new counties for the next five years. Admitting the number of inhabitants to be small, there were other considerations which, he considered, should entitle them to a Representative. They were increasing rapidly in wealth and population, by which all portions of the State were greatly benefitted, and a clear gain added to the general wealth of Michigan.

If it were actually necessary to curtail the number of Representatives, it would be better to cut down the old counties than to deprive the new of representation. He held it to be more important that Saginaw should have *one* Representative than Wayne *ten*; and he believed the old counties, if required, would be willing to give up one Representative rather than have Saginaw, and other new counties, unrepresented. Yet this was not required—it was only necessary to continue the present system.

The amount of taxes paid by some of the new counties required they should be represented; and he hoped while this Con-

vention had the power, it would not be disposed to deprive them of rights and privileges now enjoyed.

Mr. HANSCOM said, as the Convention was not full, and the subject of importance to several members absent who would probably give much information in regard to it, he would suggest the propriety of passing by the section.

Mr. WHITE hoped the suggestion would be carried out. He moved to pass over section 3. Carried.

Section 4 being under consideration,

Mr. WOODMAN moved to amend by striking out all in the first line to the word "in," and inserting "The boards of supervisors."

Mr. GOODWIN said the amendment, if adopted, might lead to some difficulty in the county of Wayne, as there was no board of supervisors in that county; there was a board of auditors.

Mr. DESNOYERS begged leave to correct his colleague, [Mr. GOODWIN.] There was a board of supervisors in Wayne.

The amendment was adopted.

Mr. COMSTOCK moved to amend by striking out the word "white," in line 3.

Mr. SULLIVAN said he saw no reason why the word was inserted, unless the committee went on the ground that representation should be based on the number of electors. This he did not consider the true basis of representation. If the black population were not to be included, on what principle were minors, aliens and women to be taken in the enumeration? The blacks were citizens and had certain rights, and if they became paupers, the county had to support them. He believed they should be included in enumerating the population for a representative basis.

Mr. COMSTOCK said he could not perceive any reason why the colored population should be excluded in apportioning the representative districts; on the contrary, he believed it no more than right that they should be taken into consideration. There were none so ultra, even at the south, as to wish or desire to exclude them in taking the enumeration for a basis of representation; and was Michigan prepared to take that step and exclude them? He thought the proposition an extraordinary one.

Mr. HANSCOM remarked, as his friend,

Gen. ROBERTS, who was not in his seat to-day, being absent on leave, had a particular interest in the question—bands of Indians forming a numerous class of his constituency—he would suggest to the mover the propriety of waiving the consideration of the question to-day.

Mr. VAN VALKENBURGH said, as several members were absent who were particularly interested, he moved to pass the section over.

Mr. LEACH thought they were particularly unfortunate. It seemed that members specially interested were always absent when any question came up. He saw no reason why the section should be passed over.

Mr. REDFIELD hoped it would not be passed over. If passed with the expectation of having a full house, it would not be acted upon for some time, as several members would be absent at all times. It would protract business to go on in this manner. Members should be in their seats.

Mr. VAN VALKENBURGH said we were bound to believe that some necessity detained gentlemen from their seats, and in such cases should do as we would wish to be done by. Had he any particular interest in any question that should come up during a temporary absence, he would deem it an act of courtesy to have it passed over until his return.

Mr. BRITAIN—We are not bound to believe anything that does not appear reasonable and probable on its face. Leave of absence was granted the gentlemen, and the time for which it was granted has expired.

Mr. CORNELL had only one word to say. The amendment involved a general principle—whether apportionment shall be based on white population alone, or not. There was nothing sectional in it, and it could be as well settled now as at any time hereafter.

A motion was made that the committee rise and ask leave to sit again.

Mr. McCLELLAND said such a course of proceeding could but prolong the session two or three weeks. The section could be passed on in committee and when taken up in Convention gentlemen now absent would have an opportunity of expressing their views and proposing any

amendments they thought proper. He was disposed to give them every opportunity to do so. But the plan of taking up an article and passing over a section, and then taking up another section and passing it over, must lead to difficulties in their proceedings.

Mr. BRITAIN thought the gentleman from Monroe [Mr. McCLELLAND] had correctly stated—that by thus passing over sections the session would be prolonged and difficulties ensue.

It was true that leave of absence had been granted to the gentlemen absent, as an act of courtesy, but he had not heard that leave was given on the ground of important business, and the time had already expired. The gentlemen from Cass, who were interested as much or more than any other members, had not asked the committee to postpone its action. As to the statement that the gentlemen from Mackinaw and Chippewa were detained from their seats from necessity, and we were bound so to believe, he would say again we were not bound to believe any thing that was unreasonable and improbable.

The motion that the committee rise was withdrawn.

Mr. VAN VALKENBURGH—I feel bound, Mr. President, to say a word in self-defence. In the absence of all testimony to the contrary, sir, we are bound to believe that the gentlemen from Mackinaw and Chippewa are necessarily absent; and the fact that the time has expired for which they were excused, is additional evidence they are providentially detained.

Mr. WILLIAMS, (in his seat,)—Rather improvidentially.

The question recurring on Mr. VAN VALKENBURGH's motion to pass over section 4,

Mr. CRARY said the section could not be passed over unless by unanimous consent. The proper mode of proceeding was to take up section after section, and pass them; that was the rule. The committee could not pass over a section unless by unanimous consent, and he objected. It was the business of members who had any particular interest at stake to be in their seats.

Mr. EATON thought the committee had a right to pass by or over any particu-

lar section they saw proper. After passing they could go back and take it up again.

Mr. E. read the 29th rule of the Convention to sustain his position.

Mr. McCLELLAND—The difficulty is this: the question is, is not the whole article postponed by passing over any section?

Mr. HANSCOM—Notwithstanding such may be the practice in other deliberative bodies, it has been the settled practice in the Legislature of this State, in committee of the whole, to pass by any section of a bill under consideration when any necessity calls for such action. There is reason in the rule, as we have just seen, when applied to section 3, which was passed by. Many members did not, at the moment, have sufficient information to enable them to vote understandingly, and to give an opportunity of preparing themselves to vote with as much light as possible, the section was passed by. All must see, sir, the obvious propriety in thus proceeding. By passing over any particular section the whole article is not postponed; only the section for the time, and the committee can go back and take it up again.

I hope, sir, the section under consideration may be passed over, as I am not prepared to vote on it at present, and do not wish to give a vote that I may hereafter regret. This, and the section just passed over, are so connected that we cannot act on the one under consideration without having matured that preceding it. For this reason it should be passed over.

Mr. EATON—The gentleman from Monroe [Mr. McCLELLAND] and the gentleman from Calhoun, [Mr. CRARY,] I acknowledge, have had much legislative experience, and they contend the whole article must be considered—that if a section is passed over the whole article is postponed. Now, sir, the gentleman from Oakland [Mr. HANSCOM] desires to have this portion passed over until the delegates from Mackinaw and Chippewa are in their seats, and can give us their views on this subject. I do not see any objection to passing it by, or that such a course would conflict with the rules of the Convention. I hope the section may be passed over.

Mr. CRARY—Let us see what the English language is. I read from Jefferson's Manual:—"The natural order in

considering and amending any paper is to begin at the beginning and proceed through it by paragraphs; and this order is so strictly adhered to in Parliament that when a latter part has been amended, you cannot recur back and make any alteration in a former part." We are now, sir, in committee of the whole on a particular order, the article Legislative Department, and we can take up nothing but this order. The order is the whole bill, and the committee must proceed to consider it by paragraphs or sections, or rise. We cannot pass over a section. The question is not whether we shall pass this section or that, but the whole article. The rule as laid down in the manual is the true rule to govern us.

Mr. S. CLARK—I understand the gentleman from Calhoun [Mr. CRARY] to raise a point of order—that the committee cannot pass over a section unless by the unanimous consent of the Convention. Now, sir, if such be the case, I am in favor of resuming the section already passed over. I hope the motion will not prevail, and that no section will be passed over for the accommodation of absent gentlemen.

Mr. HANSCOM said if the chair decided the rule to be as stated by the gentleman from Calhoun, [Mr. CRARY,] he hoped an appeal would be taken. It would be well to have the question settled.

After some few remarks by several members, the CHAIR having decided the motion to pass over section 4 to be in order, the motion was put and lost.

The question being on the motion of the delegate from Lenawee, [Mr. COMSTOCK,] to strike out the word "white" in line eight,

Mr. McCLELLAND said, the gentleman from Lenawee is mistaken in supposing the insertion of the word "white," a new feature, or an extraordinary proposition. If he will turn to the article in the present constitution, he will find it reads as follows: "The legislature shall provide by law for an enumeration of the inhabitants of this State in the years one thousand eight hundred and thirty-seven, and one thousand eight hundred and forty-five, and every ten years after the said last mentioned time; and at their first session after each enumeration so made as aforesaid, and also after each enumeration

made by the authority of the United States, the legislature shall apportion anew the Representatives and Senators among the several counties and districts, according to the number of *white* inhabitants."

It has always been the rule in this State to make an apportionment on the basis of white inhabitants; and far from being an extraordinary rule, is a very ordinary one. The question was not raised in committee.

The provision in the Constitution of Illinois, after reciting the years in which an enumeration of the inhabitants shall be made, to form a new apportionment, reads: "and the number of Senators and Representatives shall, at the first regular session holden after the returns herein provided for are made, be apportioned among the several counties or districts to be established by law, according to the number of *white* inhabitants." In the State of Iowa the language of the Constitution is, "within one year after the ratification of this Constitution, and within every subsequent term of two years, for the term of eight years, an enumeration of all the *white* inhabitants of this State shall be made in such manner as shall be directed by law. The number of Senators and Representatives shall, at their first regular session of the General Assembly after such enumeration, be fixed by law, and apportioned among the several counties according to the number of *white* inhabitants in each."

I believe, sir, this is a general provision in most of the constitutions of the different States. It is now for the Convention to say whether it shall be stricken out in our constitution. I shall vote against it.

Mr. WILLIAMS—It appears to me we are involving ourselves in a gross inconsistency by introducing the word "white" in this connection. The third section of the article under consideration contemplates an apportionment of our Senators and Representatives alternately every five years, on the basis of the census of the United States and our own State census. Now let us turn to the constitution of the United States, and what is its language? "Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole num-

ber of *free persons*, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons." Thus the constitution, even in the slave States, makes the number of souls, and not color, the basis of representation.

Mr. McCLELLAND asked the gentleman if he would adopt the whole of the constitution of the United States on the subject.

Mr. WILLIAMS—In what respect? The three-fifths feature in representation?

Mr. McCLELLAND—Yes.

Mr. WILLIAMS—Oh no. I would not. That part is not applicable to us. I would preserve some show of consistency. We are compelled to adopt the enumeration of the United States census in the apportionment of members of Congress for this State. While we are represented in Congress on one basis, why adopt a different one in regard to domestic policy? Why not adopt the enumeration of the United States, and not garble it?

Mr. McCLELLAND—It would not be garbling it. The census of the United States is arranged in columns, and the number of white inhabitants is exhibited separately.

Mr. WILLIAMS—Still you are compelled to take the whole enumeration as the measure of your representation in Congress, and then you propose to garble and to carve it up, before you make it a basis of home representation. Let us be consistent.

But, I am a little too fast. In courtesy to the gentlemen from Mackinaw and Chippewa, [Messrs. McLEOD and ROBERTS,] we have passed over section 3, and are debating now the propriety of striking out a word in section 4, which occurs in the former section. I was opposed to passing section 3. Courtesy to the gentlemen named does not require it. We are only in committee. When the article comes in to the Convention, those gentlemen will have ample opportunity to take care of their interests.

In regard to the claim made by the delegate from Oakland [Mr. HANSOOM] in behalf of those gentlemen, on account of the large number of Indians in their districts, the United States enumeration settles that question also. "Excluding In-

dians not taxed," fixes the basis in that respect, and defines precisely who must there constitute it. Now, inasmuch as we are in a snarl in consequence of passing over a feature of section 3, and are considering the same feature of section 4, I would ask the gentleman from Lenawee to withdraw the amendment, and I will then move to resume the consideration of the previous section, and thence have plain sailing. But, inasmuch as I do not wish to trouble the committee again, I will say I am in favor of striking out the word "white," in both connections. 1st: because we shall preserve consistency by adopting the same basis of representation for our own legislature, which is adopted by the United States in our national councils; 2d. because of the absolute justice of the case.

I wish to say little in addition to what has been said by the gentleman from Cass [Mr. SULLIVAN] on that point. One consideration, however, was omitted by him: "Taxation and representation should go together," says the gentleman from Saginaw, [Mr. SUTHERLAND,] and in claiming for the sparsely settled counties a representation disproportioned to the number of inhabitants, he adduced tabular statements to show that their property was large, and the consequent interests to be protected, heavy, and therefore it should be estimated as an element in appointing representatives. The reasoning received respectful attention, and I think I saw evidences that the Convention were about to recognize it as sound, in conceding to the claims of the smaller counties. To this policy I do not here object; but I do insist that if the productive energies of Saginaw, existing in its property—saw mills and lumber schooners—are to be recognized, that the productive energies of other counties, existing in living men, should at least be placed on as dignified a level. Are we about to allow a representation to the wild lands and trees, and the saws of Saginaw which play up and down, moved by the power of steam and water, and not to bones, and sinews, and muscles, and nerves, impelled by a living heart, and prompted by human intellect? Are we to be guilty of such absurdity and injustice?

Mr. WALKER said he was in favor of striking out the word "white." Was it fair or just that females should be enu-

merated in forming a basis of representation, and other inhabitants excluded? If representation is to be based on the number of voters, why are females, minors, &c., to be counted, and another class of citizens not reckoned. He thought it would be fair to strike out the word. By retaining it great injustice might be done to some sections of the State, particularly new counties, that might by this provision come under the ratio to be established.

Mr. COMSTOCK, at the suggestion of Mr. WILLIAMS, withdrew his motion to strike out the word "white," when,

Mr. WILLIAMS moved to resume the consideration of section 3.

Mr. MORRISON enquired if the motion was in order, as the section had just been passed over by the committee.

The CHAIR—Yes sir. No definite time was named when it was passed by.

The motion to resume the consideration of section 3 was carried, and the question being on the substitute of Mr. CHAPEL for the amendment offered by Mr. SUTHERLAND, Mr. S., by general consent, withdrew his amendment and offered the following, to be added at the end of section three: "*Provided*, That until the next apportionment under the census of 1855, the counties of Saginaw, Tuscola, Midland and Gratiot shall be entitled to one representative each; the county of Mackinaw, and the counties thereto attached, to one representative; the counties of Chippewa, Houghton, and Marquette to one representative."

Mr. WHITE moved that the committee rise, report progress and ask leave to sit again. Lost.

Mr. CHAPEL renewed his substitute: "every organized county containing two thousand white inhabitants shall be entitled to one representative."

Mr. C. said he wished to be liberal with the new counties, and as the proposition of the gentleman from Saginaw [Mr. SUTHERLAND] did not define the number of inhabitants on which a basis was to be made, he thought the number proposed, two thousand, a fair and liberal one. The old counties could afford to be liberal—they ought to be, yet he did not wish the bands of Indians hunting from Canada to be enumerated and form the basis of representation for the new counties.

The substitute was adopted.

Mr. VAN VALKENBURGH moved to amend section three, line five, by inserting after "inhabitants," the words "and such colored persons and Indians as are taxed." Lost.

Mr. COMSTOCK moved to strike out "white," in fifth line, and insert after "inhabitants," the words "excluding Indians not taxed."

A division of the question being called for, the committee refused to strike out.

Mr. GALE moved to insert after "inhabitants," the words "excluding all aliens." Lost.

Section 4 was read as amended, on the motion of Mr. WOODMAN.

Section 5 being under consideration, Mr. COOK offered the following substitute therefor:

"The State shall be divided into thirty-two districts, to be called Senate districts, each of which shall chose one Senator. The districts shall be numbered from one to thirty-two, inclusive. The Senators chosen by the odd numbered districts shall go out of office at the expiration of two years; the Senators chosen by the even numbered districts shall go out of office at the expiration of four years; and thereafter the Senators shall be chosen for the term of four years. No county shall be divided in the formation of Senate districts except such county shall be equitably entitled to two or more Senators."

Mr. McCLELLAND said he did not perceive why the section as reported by the committee would not apply to the single district system. The provisions were similar to those of Illinois and Iowa, in which States the single district system prevailed. He did not apprehend that any difficulty would grow out of the section, as regarded that system. It might be necessary to insert another section for excess of population similar to that in the constitution of Illinois. [Mr. McC. here read the provision in the constitution of Illinois.] If his friend from Hillsdale [Mr. Cook] would examine, he would find the section to answer the purpose, and applicable to the system he desired.

Mr. J. BARTOW moved to amend section 5 by striking out of line 2, the words "from their respective districts."

The motion was carried.

The question recurring on Mr. COOK'S substitute,

Mr. HANSCOM moved to strike out all that part included between the words "inclusive" and "no county."

Mr. H. said he was in favor of having the entire Senate elected every two years and not one-half only.

Mr. COOK was in favor of that himself; but thought, from the vote yesterday, the Convention decided to elect one-half of the Senate every two years.

The motion of Mr. HANSCOM prevailed, and the question recurring on the substitute as amended, a division was called for.

Section 5 was then stricken out and the substitute adopted.

Section 6 was read.

Mr. COOK moved to amend section 7, by adding at the end thereof the words "and all votes given for any such person shall be void."

Carried.

On motion of Mr. HANSCOM, the word "postmasters," in line one, was stricken out.

Mr. STOREY moved to strike out "notaries public, and officers of the militia and of townships excepted."

But the committee refused to strike out.

Mr. BUSH offered the following substitute for section 7:

"No person holding any United States office or State office, (notaries public and officers of the militia excepted,) shall be eligible to a seat in either house of the Legislature; and votes given for such person shall be void."

Mr. B. said the provision in the present constitution had not been sufficiently understood. Under it the question of the eligibility of certain county officers had been frequently before the Legislature, and it was yet uncertain whether they rightfully held their seats or not. It was urged by some that county and township officers were excluded from holding seats from the very fact that justices of the peace were excepted. He had never been in the Legislature without witnessing some confusion growing out of the election of a county officer, judge, clerk, or some other. If his substitute did not clearly and sufficiently define the matter, he hoped some other gentleman would offer a proposition that would.

Mr. J. CLARK moved that the commit-

tee rise, report progress and ask leave to sit again. Lost.

Mr. CHURCH said he knew no reason why township officers should be excluded from the Legislature. Many of them were well qualified for such duties.

Mr. MORRISON hoped the substitute would not prevail. County officers should remain at home and attend to their official duties. There was as much propriety in keeping them out of the Legislature, as those who held office in the different departments of State.

Mr. EATON—Would you exclude justices of the peace?

Mr. MORRISON—Yes sir. Let them stay at home and perform their duties there. I have known them to go off and take their dockets with them, by which the interest of persons has suffered. I would exclude every one who has official duties at home.

Mr. BUSH said his object in offering the substitute had been accomplished. He wished to draw the attention of the Convention to the subject. If they saw proper to exclude all county officers, he would vote for it. It was the duty of the Convention to put the matter at rest. Many supposed, under the present Constitution, that county officers, save those specially excepted, were excluded from seats in the Legislature. [Mr. B. here read the provision of the Constitution.] But he presumed that most county officers held seats. In the legislature of 1840, there were so many county officers holding seats that it led to great confusion. It was like a two-edged sword.

Mr. McCLELLAND thought the general interpretation of the clause of the Constitution was as stated by the gentleman from Ingham [Mr. BUSH]—that all officers were excluded save those specially excepted. That was the intention of the committee who reported the article under consideration.

He was opposed to excluding justices of the peace, for the reason that if excluded, it might be a difficult matter to get a competent person, out of a village, to fill the office. For the public welfare, the exclusion ought to be as limited as possible. If a justice were doing a good business, he would be unwilling to leave it for a seat in the Legislature.

In regard to the cases of county officers holding seats, mentioned by gentlemen, he believed the question of their eligibility had been referred to committees, but, if rumor was correct, those committees had withheld their reports and the officers thus permitted to remain and hold their seats in the legislature. The question was not settled.

Mr. MORRISON deemed it as necessary to exclude justices as any others. The gentleman from Monroe [Mr. McC.] had said that they would not leave a good business to come to the Legislature. His experience taught him better. He had known cases where special elections were necessary to fill vacancies occasioned by the election of justices to the Legislature.

He did not understand the proposition of the gentleman from Ingham [Mr. Bush] to exclude justices, and therefore moved to amend the substitute by inserting the words "county and township officers," so that they would be excluded.

Mr. WOODMAN hoped that path-masters would not be excluded, as he held that office at home.

On motion of Mr. DANFORTH, the committee rose, reported progress and obtained leave to sit again.

On motion of Mr. WOODMAN, the Convention adjourned.

Afternoon Session.

On motion of Mr. McCLELLAND, the Convention resolved itself into committee, and resumed the consideration of the article on the Legislative Department.

Mr. McCLELLAND offered a substitute for section 7, which excepted township officers from being excluded from seats in the Legislature.

Mr. McC. said it seemed to him that the substitute he offered better expressed the sense of the committee than did the original section, or the substitute of the gentleman from Ingham, [Mr. Bush.] The design of the committee was, he believed, not to exclude township officers.

Mr. CRARY asked if this proposition, if adopted, would not conflict with another provision in another report. If the report of another committee should be adopted, justices of the peace would become judi-

cial officers. He mentioned it to call attention to that point.

Mr. McCLELLAND thought it the sense of the committee that justices of the peace, as well as all other township officers, should be eligible to a seat in the Legislature; and if there should be a conflict of provisions, it could be remedied hereafter.

Mr. FRALICK moved to amend section 7 so as to read, "No person holding any office under the United States or this State, or any county office, notaries public, officers of the militia and officers elected by townships, excepted, shall be eligible to or have a seat in either house of the Legislature."

Mr. F. thought the amendment would obviate all difficulty that had been apprehended. It would avoid all difficulty of construction, also, by any one, and make the section so that all officers *elected* in the townships would be eligible to a seat in the Legislature. This he believed to be the sense of the committee. Supervisors and justices of the peace were, in many of their duties, county officers. The supervisor was a representative of his town in the county board, and his duties in such board rendered him a county officer in their discharge.

Every one was aware of the difficulty, particularly in the smaller towns, of obtaining proper persons to fill township offices. The best men of every town were wanted for those places; and if an exclusion from a seat in the Legislature was added to the unprofitable and onerous duties of township officers, he thought it would be sensibly felt in the administration of our town affairs. The idea of an exclusion, whether men were ambitious for a seat in the Legislature or not, would prevent very many of our best men from participating in the burdens of town officers.

Mr. REDFIELD said he should be sorry to see magistrates and supervisors excluded from a seat in these halls. No class of our citizens were so fit to come here as these very men. They had been through a course of proper training to fit them for their duties here, and in no hands could the various interests of the different portions of the state be better committed. He should regret very much to see these classes of our citizens excluded from seats in our legislative halls.

Mr. CORNELL—When a law is framed, it is difficult sometimes to put it into practical operation; that is, its details are not perfect. A very large proportion of our laws are executed by township officers, and their experience in putting them into operation makes them better fitted to point out defects and suggest improvements than almost any other class. An officer, passing up through the different services of a township, must know the minute workings of the laws, and his experience would make him a useful legislator.

Mr. CHURCH—The question seems to be whether justices of the peace and supervisors shall be eligible to a seat in the Legislature, and whether the section as reported would give justices of the peace such a privilege, if they should be made state officers by the adoption of the judiciary report. Whether the original report would meet the expression of views in the committee or not, the amendment of the gentleman from Wayne, [Mr. FRALICK,] it seemed to him, would avoid any misconception, and relieve officers elected in the townships from the exclusory clause.

Mr. McCLELLAND withdrew his substitute.

Mr. GOODWIN—The section under consideration is regarded as susceptible of different constructions, and the amendment of my colleague [Mr. FRALICK] is designed, in part, to remedy the evil. I hold in my hand an amendment I had designed to offer, which I think will render the section more explicit.

It has been remarked that the corresponding section in the present constitution has occasioned a great deal of discussion in the Legislature. It has received a broad construction, and one, I think, not in conformity with its object and intent. It reads as follows: "No person holding any office under the United States, or of this State, officers of the militia, justices of the peace, associate judges of the circuit and county courts, and postmasters, excepted, shall be eligible to either house of the Legislature." One would have supposed that the phraseology would have excluded county officers, yet it is well known they have been admitted to seats. I remember a case that occurred two years ago. A contested election of a county clerk had been returned to the House of Representatives, and he

had obtained a certificate of his election. The question came up as to his competency to hold the seat; yet he was permitted to retain it. I understood it was decided that the proper construction of the section was that it merely applied to state officers; in common parlance, officers appointed directly by state authority.

The language of the article before us is similar. It reads, "No person holding any office under the United States or this State, (postmasters, notaries public and officers of the militia and of townships excepted,) shall be eligible to or have a seat in either house of the Legislature." My amendment proposes to take away the plausibility of the present construction, and make the section more explicit. It is as follows: After the words "holding office," to insert, "under the constitution or laws of the United States or of this State." It will put the matter beyond the probability of any ambiguity or misconception.

In reference to the exceptions which would be embraced, of course, they should be made in reference to the object of the provision. As I understand it, the object is two-fold: one to prohibit from seats in the legislature persons who hold office; which would require the performance of duties connected with them during the sessions, so that during that time, the public would not be deprived of their services; another, that individuals who occupy official positions, should not use the influence of their positions to forward their object in obtaining seats in the legislature, and perhaps be led into negligence or unfaithfulness in the performance of their duties. In other words, guarding the purity of elections. This doubtless had its weight as well as the other.

There may perhaps be a further object to act; that one individual should not hold a number of offices at the same time, but that they should be more generally distributed. The two first I consider of the most importance.

Mr. McCLELLAND did not clearly see the point of the suggestion of the gentleman from Wayne, [Mr. GOODWIN.] He [Mr. McC.] preferred the amendment of Mr. FRALICK as it stood. It provided for every case conceivable—United States, State and county officers, except military and township officers and notaries public—it covered the whole.

Mr. CHURCH—The amendment of Mr. FRALICK is well; but if it takes the modification of the other member from Wayne, [Mr. GOODWIN,] it would be like the man who took medicine when he was well, to make him better, and then—died.

Mr. MORRISON was in favor of excluding township officers from a seat in the legislature. If the remarks of the gentleman from Jackson [Mr. CORNELL] and the gentleman from Cass, [Mr. REDFIELD,] as to the benefits derived from the experience of town officers were correct, they applied with equal force to those who had retired from service in a town capacity, as to those who should be incumbents of those offices. And the same reasoning would apply to all State and county officers. He did not want the article left so loose that it would be moulded to the accommodation of those men who wanted two offices; and therefore supervisors and justices of the peace should be excluded from a seat in the legislature.

Mr. CORNELL—The gentleman from Calhoun [Mr. MORRISON] wished to prohibit supervisors and justices of the peace from being members of the legislature. He [Mr. C.] was willing to let the people judge of that matter.

Mr. MORRISON—Why not apply the same principles to judges of the Supreme Court?

Mr. CORNELL—The judges of the Supreme Court are expounders of the law.

Mr. SULLIVAN moved to amend the amendment by striking out the words "be eligible to or."

Mr. S. had two objects in offering the amendment. 1st: that one duty should not conflict with another; and 2d: that no person should employ one office to enable him to obtain another. Having used one position to secure his election to a seat in the legislature, he might resign his first office, after his election to the latter.

Mr. FRALICK—They are the very words, we want to carry out the wishes just expressed. If he held one office, under the section as it now stands, he would be compelled to resign it before being elected to a seat in the legislature, and not to leave it till after the election, and the make a choice of offices.

Mr. KINGSLEY inquired if notaries public were State officers? If they were

to be made so, he would move to strike those words out of the exceptions.

Mr. KINGSLEY withdrew his motion.

Mr. FRALICK'S amendment was then adopted.

Mr. BUSH withdrew his substitute.

Mr. BEARDSLEY said that the committee had once refused to make post masters an exception to the exclusion; but he hoped that the decision, on a further consideration, might be reversed. He did not feel disposed to make a move in the matter; but there might be a difficulty in obtaining good post masters, if they should be thus excluded.

Sec. 9. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as each house may provide.

Mr. FRALICK moved to insert "members elected to," after "of," in the first line.

Mr. HANSCOM would like the gentleman from Wayne [Mr. FRALICK] to give a reason for his proposition.

Mr. FRALICK—Much difficulty has arisen upon the construction of our present constitution where similar words have been used. I am for having the matter fixed certain, beyond the possibility of misconstruction.

Mr. HANSCOM—The strictness of the amendment might be well in other cases, but this section is well enough as it is.

The amendment was lost.

Sec. 10. Each house shall choose its own officers, and shall determine the rules of its proceedings, and judge of the qualifications, elections and returns of its own members; and may, with the concurrence of two-thirds of all the members elected, expel a member; but no member shall be expelled a second time for the same cause, nor for any cause known to his constituents antecedent to his election; and the reason for such expulsion shall be entered upon the journal, with the names of the members voting on the question.

Mr. HASCALL would inquire of members better acquainted with matters of legislation than himself, if some other method—something simpler and cheaper—

could not be devised for settling the seats of contesting members? Whether claimants might not go before some judge at chambers, with their statements and proofs; and the decision of the judge be final? When a legislative body was closely balanced between parties, members were very apt to be biased by their political prejudices, and great injustice might be, as it often had been, done.

Mr. WALKER said that they had had some experience in Macomb county, with the method suggested by the gentleman from Kalamazoo, [Mr. HASCALL;] and the practical workings of the system, he thought, not very favorable. They had had a contest for the office of judge of probate, but the one who got his seat had served out his term of office before a decision was had in the case.

Mr. MOORE would call the attention of the committee to the 32d section of the article under consideration, which provides that in cases of a contested seat, the person only who is declared entitled to it, shall receive per diem compensation or mileage.

Mr. McCLELLAND looked upon the provision last alluded to as a sovereign panacea for all the evils of which complaint had heretofore been made.

Sec. 11. Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the request of one-fifth of the members present, be entered on the journal. Any member of either house shall have liberty to dissent from and protest against any act or resolution which he may think injurious to the public or an individual, and have the reason of his dissent entered on the journal.

Mr. ROBERTSON moved to strike out "except such parts as may require secrecy," in the first and second lines. Mr. R. saw no reason for its retention in the article.

Mr. McCLELLAND observed that it was a clause which was in all the constitutions of the different States. It had been reported in this article, because exigencies might arise in which the proceedings of the legislature should be done in secret. In case of an invasion or insurrection, the

necessities of the case might require such a course.

The motion was lost.

Mr. COOK said that the right of protesting had taken up a great deal of time in our legislative bodies, and he thought this section might be made a little more definite, to obviate any future disagreement as to the extent of the right intended to be conferred. Some had heretofore contended that the term "act," referred to a motion or decision of the chair; while others thought it only applied to a law, resolution or vote. The proper and definite construction might, and should be, agreed upon now, to prevent useless contentions and discussions hereafter. One branch of the legislature, last winter, was occupied about a week in discussing this question, to no benefit to the public. He suggested that the word "passed," after "resolution," would remedy the defect of the section.

Mr. HANSCOM was a looker-on in the scene alluded to by the gentleman from Hillsdale, [Mr. Cook;] and there was a great deal of useless discussion, and a waste of time to no purpose; the majority was at last worried out by the untiring exertions of the minority. He could not, however, agree with the last gentleman's views, nor the amendment suggested. He looked upon the article as securing essential rights to the minority, and was in favor of extending to them all the rights and privileges they would ask. They should have the right not only to protest against any act or resolution passed, but against any proceeding which might be an encroachment on their rights. He would therefore move to insert "proceeding," after the word "act."

Mr. COOK thought members should not have the privilege of protesting against any trivial or private act that might be done in a legislative body—acts that concerned no one but the private feelings of members—but only against acts which concern the public. He would move to insert after "resolution," the word "passed."

Mr. McCLELLAND—Such an amendment would produce more trouble than we have now. It was extremely difficult to provide for all the troubles of the legislature; but this amendment seemed to him

to leave greater room for difficulty as well as for a greater infringement on the rights of the minority. A fair construction of the article, as reported, would permit, as it ought to permit, Senators to protest against the acts of the Senate, and members of the House against the acts of the House. But what would be the effect of this amendment? Suppose a bill introduced should pass one house, and go on to its final passage in the other, and there be defeated. The right to protest, in the house in which the bill originated, falls with the defeat of the bill in the other house. The right of protesting is a privilege which ought to be given to the minority.

Mr. COOK modified his amendment by striking out "act," and inserting "passage of any bill." That would remedy the evil alluded to by the last gentleman, and give the right to protest against all acts that concerned the public. To give the right to protest against all doings of that body was giving too broad a latitude.

Mr. BUSH was in favor of the amendment offered by Mr. HANSCOM. Great injustice to individuals and minorities had been done by the action of our legislative bodies. He alluded to a case where the Senate majority refused to enter a respectful protest on its journals, against the actions of that body. The whole matter had been suppressed, except what had been stated through the newspapers.

Mr. HANSCOM said that he believed in the absolute right of minorities to protest against any proceeding that might occur in the course of legislative proceeding. The want of such a provision had worked great injustice, and led to almost interminable conflict and discussion. The last session of our legislature furnished sufficient illustration of the propriety and necessity of the amendment.

Mr. McCLELLAND said no reasonable request to enter a protest on the journals should be denied. But in times of high excitement, when a majority desired to accomplish a certain thing, they would do that thing; throw around them all the restrictions and guards you please, if they were determined to do the thing, they would do it. Such, his observation had taught him, was the fact.

Mr. COOK had never known a protest

kept off the journals, which related to acts which concerned the public. They were the only proper ones to find a place on the journals, and not those in reference to their own quarrels and difficulties.

Mr. HANSCOM'S amendment was then adopted.

Mr. COOK withdrew his amendment.

Sec. 15. Every bill passed by the legislature shall, before it becomes a law, be presented to the Governor; if he approves it, he shall sign it; but if not, he shall return it with his objections to that house in which it originated, who shall enter the objections at large upon their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of all the members present agree to pass the bill, it shall be sent, with the objections, to the other house, by whom it shall likewise be reconsidered; and if approved also by two-thirds of all the members present in that house, it shall become a law; but in such case, the vote of both houses shall be determined by yeas and nays, and the names of members voting for or against the bill shall be entered on the journals of each house respectively; and if any bill be not returned by the Governor within ten days, Sundays excepted, after it has been presented to him, the same shall become a law, in like manner as if he had signed it, unless the legislature, by their adjournment, prevent its return; in which case it shall not become a law. But the Governor may approve and sign and file in the office of the Secretary of State, within five days after the adjournment of the two houses, any act passed during the last five days of the session; in which case it shall become a law.

Mr. HANSCOM moved to strike out "two-thirds," wherever it occurred in the section, and insert instead, "majority of all members elected."

Mr. J. D. PIERCE hoped that the amendment would not prevail. It would throw the power of passing a bill over the objections of the Governor into too few hands.

Mr. McCLELLAND said he was aware there had been objections to investing the Executive with the veto power; but upon examination, he thought these objections would yield to reflection and reason. Perhaps no individual had experienced more

than himself, the direct disadvantages growing out of the exercise of this power; yet he regarded it as one of the most salutary provisions of a Constitution. Without it, [said Mr. Mc.,] what would our own State have been? And if there had been more firmness on the part of the Executives—if the veto had been applied to numerous measures of our State legislation—how different would have been the condition of the State? Her prosperity would have been far in advance of what it is at this period, and her reputation without blemish.

Upon the excitement and impulse of the moment, we were apt to suppose the veto power dangerous and oppressive; as yielding too much into the hands, and to the discretion of one man; but upon sober reflection, a calm survey of its practical effects must convince all of its soundness and practicability.

The people of the United States admitted it to be a wise and salutary means of protecting the interests of the country; and while certain localities might, in some instances, suffer from its exercise, and feel aggrieved, yet the masses were satisfied. He felt no disposition to argue the matter, yet, if necessary, he was prepared to discuss the question, in all its latitude, now or hereafter.

Mr. J. D. PIERCE had no doubt of the correctness of the assertion that if the Governors of this State had more frequently exercised this power we should have been in a far more prosperous condition. If the amendment pending should be lost, he would move to amend so as to require a vote of two-thirds of all the members elected to pass a bill over the objections of the Governor.

Mr. HANSCOM's amendment was then lost.

Mr. J. D. PIERCE moved to strike out "present," where it occurred in the section, and insert "elected." Carried.

Sec. 17. The members of the Legislature shall receive for their services three dollars a day for actual attendance except absent from sickness, for the first sixty days of the session of 1851, and for the first forty days of every subsequent session, and nothing more. When convened in extra session by the governor, they shall receive three dollars a day for the first

twenty days, and no more, and shall legislate on no other subjects than those expressly stated in the governor's proclamation. They shall also receive ten cents for every mile they shall actually travel in going to and returning from their place of meeting, on the usually traveled route; and for stationery and newspapers not exceeding five dollars for each member during any session.

Mr. WILLARD moved to strike out "three," and insert "two," as the per diem of the members.

Mr. S. CLARK said he was in favor of striking out three dollars and inserting two, and believed that instead of destroying the character of the legislative body it would improve it. The position would no longer be sought after by interested men, eager for the spoils. It will not be by that class of men so eagerly sought for; but the people will select the best men to represent their views. There will be no difficulty in obtaining members of talent to represent the people, and he hoped the amendment would prevail.

Mr. J. D. PIERCE asked if the object of the gentleman, to prevent men seeking the place for the spoils, could not be better accomplished by striking out all pay, and place us on the same ground with the British Parliament.

Mr. EATON was opposed to the proposition of the gentleman from Van Buren, [Mr. WILLARD.] His constituents were more liberal than to require such a parsimonious measure of the Convention. He had heard the matter discussed at home, and they would be satisfied with the adoption of biennial sessions, without reducing the present per diem of members. Who would be willing to go to the legislature and sacrifice his time for two dollars per day?

Mr. McCLELLAND said there were those who favored a reduction in the per diem allowance of members; yet, from the retrenchment intended to be carried out in the legislative and other state departments, he thought there would be no necessity for reducing the pay of members. He had taken pains to ascertain the expenses of several sessions of the legislature, and prepared the following table of expenses, together with an estimate of the

expense of two years under the present recommendation.

1849 newspapers,	\$606 60
1850 "	583 50
1849 Postage,	2,868 70
1850 "	1,840 13
1849 Stationery,	425 00
1850 "	440 00
1849 Pay of members and mileage,	31,042 60
1850 " " "	31,359 93

69,166 51

(Mileage about \$2,000 included in foregoing.)

Probable amount by present recommendation.

1851 Postage on matter received merely,	\$400 00
Pay of members, sixty days,	14,840 00
Serg't-at-arms, clerk, &c.,	900 00
Stationery and newspapers,	352 00
Stationery for clerk, &c.,	50 00
	<hr/> \$16,542 00

Difference, \$52,624 51

Showing that under biennial sessions, there would be a saving to the State, in two years, of fifty-two thousand six hundred and twenty-four dollars. Postage in 1843, when he was a member, under the high rates of postage, was \$247 67.

Mr. VAN VALKENBURGH—I trust, sir, the amendment of the gentleman from Van Buren [Mr. WILLARD] will prevail. The county of Oakland, which I have the honor in part to represent, requires not only that the sessions of the legislature shall be shortened, but the pay of members reduced. I have, sir, in my pocket, a letter from a highly respectable citizen of that county, which states that that matter was a test question. I hope that members will come up to the scratch.

Mr. RAYNALE—Who is the gentleman who wrote the letter?

Mr. VAN VALKENBURGH—Hiram Barrett, whom the gentleman has often met.

Mr. WOODMAN must say one word. Honor and fairness required it of him. His constituents never expected him to vote for two dollars per day for the pay of members. Friend Barrett, to whom his colleague [Mr. VAN V.] alluded, had been a member of the legislature, and if you search the record you will find that he always voted for three dollars per day. He said he would not, but he did.

Mr. VAN VALKENBURGH—Those

were days of darkness—these are days of reform and light. I hope that this stigma will not attach to Mr. Barrett.

Mr. COMSTOCK had no instructions on this particular question, from his constituents, yet he was willing and ready to enter on any work of reform. He believed the people would be satisfied with the reform and retrenchments already canvassed—biennial sessions, single districts, &c.

Mr. ROBERTSON—We are in favor of reform in Macomb, inasmuch as we have thought that heretofore it has been the habit of the legislature to rob the treasury; but I think it will be a poor method to revenge ourselves by robbing those who are to come here, for the excesses of those who have preceded them.

My colleague and myself have received letters from Macomb, in which the citizens express themselves in favor of three dollars per day. They are willing to allow this, but they want biennial sessions—they want the first session to be limited to sixty days—for which they are willing to pay three dollars per day, and one dollar per day for all over sixty days; but they certainly misunderstood the price of board in Lansing, when they spoke of one dollar.

Mr. BUTTERFIELD—All that has been said resolves itself into a matter of dollars and cents.

Suppose that the pay is reduced to two dollars per day, with a session of forty days. The board and incidental expenses cannot be estimated at less than seven dollars per week, so that of the amount received, forty dollars has gone and he has forty dollars left.

The expense of the outfit of course is something—the expense of election is said nothing about.

Now is this a reasonable compensation—are these men, who thus talk, in earnest? Who will come here if his services are not considered worth one dollar per day? Who will come here for that compensation? And I would ask if those men whose services are worth nothing should come here and serve the State?

No man can come here without the loss of time and money—no man can leave his business without a sacrifice. It is a sacrifice to many a man who comes here at three dollars per day; for we know that

many have refused to sit in the legislature, because they could not submit to the sacrifice, even when the session was ninety or one hundred days in length. When it is reduced to forty days the pay will be a matter of no consideration, and I cannot think these men are serious.

Mr. WILLARD was serious in the matter. Three dollars per day might be necessary for those members who couldn't wear pantaloons without straps, and must have their wine dinners every day at the Benton House. Members were not compelled to dress finely, and there were cheaper boarding houses in town. Two dollars was enough, and he should follow the matter up.

Mr. CHAPEL would suggest the propriety of adding the words "and roast beef."

Mr. N. PIERCE—Mr. Chairman, I have always been of opinion that two dollars a day was enough—but when the report of the committee was made, I thought they had guarded it very well. They had shortened the session so that I felt to go along with them; but I am persuaded that two dollars a day is enough. I can board here and take care of myself for one dollar a day. I think the State should not hire men and pay them extra. I think you could get men to come here for two dollars a day—good men and capable. I think there would not be so much fuss about the election, but you would get good men.

As the committee had reported to shorten the session, my feelings was to go with the committee—with the report—I was satisfied—but I shall go with the gentleman from Van Buren. I think two dollars enough. I think a man can live here with prudent policy and save a dollar a day, and I think that enough. When they are elected it is fun; but it is no fun when they come here. It is like the fisherman who put the fishing against the fun, and all the fish he got was clear gain.

Mr. KINGSLEY believed the people would be satisfied if the sessions were shortened and biennial sessions adopted.

Mr. MOORE thought two dollars per day sufficient. He believed we should have better legislators than heretofore.

Mr. AMMON BROWN thought two dollars would go further now, to support

members, than three would in times past. He should go for two dollars.

Mr. VAN VALKENBURGH felt bound to defend his absent friend, Mr. Barrett.

[Mr. VAN V. then read from a copy of the journal of the legislature to prove that Mr. Barrett, when a member, had voted for two dollars a day for the pay of members.]

A division of the question being called for on Mr. WILLARD's amendment, the committee refused to strike out.

Section 17 was amended, on motion of Mr. McCLELLAND, by inserting in 1st line, after the word "services," the word "only;" by striking out "unless," in the second line, and inserting "and when;" by striking out "more," in third line and inserting "thereafter," and by striking out "no more," in fourth line and inserting "nothing thereafter."

On motion of Mr. WALKER, section 17 was amended by inserting after "proclamation," in 5th line, "or submitted to them by his special message."

On motion of Mr. STOREY, the committee rose, reported progress and asked leave to sit again.

The committee, through their chairman reported the article back to the Convention and asked and obtained leave to sit again.

On motion of Mr. J. CLARK, the Convention then adjourned.

WEDNESDAY, (15th day,) June 19.

The Convention met at the usual hour and was called to order by the PRESIDENT. Prayer by the Rev. Mr. TOOKER.

PETITIONS.

By Mr. HANSCOM: of MOSES S. COLLINS and 299 others, citizens of the county of Washtenaw, praying that the elective franchise be extended to every male citizen over the age of 21 years. Referred.

By Mr. BUSH: of 89 citizens of the town of Lansing, asking that the word "white" may be stricken from the Constitution. Referred.

REPORTS.

Mr. WALKER, from the committee on education, submitted a report accompanied by "Article —. Education."

The article was read the first and second

time by its title, referred to the committee of the whole and ordered printed.

Article —. Education.

1. There shall be elected at each general election by the qualified electors of the State, a Superintendent of Public Instruction, who shall hold his office for the term of two years, and shall have the general supervision of public instruction, and whose duties shall be prescribed by law.

2. The proceeds from the sale of all lands that have been or hereafter may be granted by the United States to this State, for the support of schools, shall be and remain a perpetual fund, the interest of which, together with the rents of all such lands as remain unsold, shall be inviolably appropriated to the support of primary schools throughout the State, and shall be annually distributed for such purpose, upon such fair and equitable basis as shall be provided by law.

3. The legislature shall establish by law a system of primary schools, by which such schools shall be kept in each and every school district, for at least three months in each year, free and without any charge for tuition, to all children between the ages of four and eighteen years, and shall provide that any deficiency that may exist after the distribution of the primary school interest fund, shall be raised in the several townships and cities, by a tax upon the whole taxable property in such townships and cities respectively. And the English language, and no other, shall be taught in such schools.

4. There shall be elected at the first general election in this State after the ratification of this Constitution, six Regents of the University, two for the term of six years, two for the term of four years, and two for the term of two years; and at each subsequent election there shall be two Regents of the University elected, who shall hold their office for the term of six years.

5. The Regents of the University shall, at their first annual meeting, or as soon thereafter as may be, elect a President of the University of Michigan, who shall be ex officio a member of their board, and shall preside at the meetings of said Regents, and who shall be the principal executive of the University. Said Board of Regents shall have the general supervision of the University, and the direction and control of

all expenditures from the University interest fund.

6. The proceeds from the sale of all lands that have been or may hereafter be granted by the United States to this State, for the support of a University, and all funds accruing from any other source, for the purpose aforesaid, shall be and remain a perpetual fund, the interest of which, together with the rents of all such lands as may remain unsold, shall be inviolably appropriated to the support of the University, with such branches as the public good may require for the promotion of literature and the arts and sciences.

7. There shall be elected at the first general election in this State, after the ratification of this Constitution, three members of the State Board of Education, one for the term of two years, one for the term of four years, and one for the term of six years; and at each succeeding biennial election, there shall be one member of said board elected, who shall hold his office for the term of six years. The Superintendent of Public Instruction shall be ex-officio a member and secretary of said board. Said board shall have the general supervision of the State Normal School, and their duties shall be prescribed by law.

8. The proceeds from the sale of all lands that have been or shall be hereafter granted or appropriated for the use of the State Normal School, shall be and remain a perpetual fund, the interest of which, together with the rents and profits of such of said lands as shall remain unsold, shall be inviolably appropriated for the support of said Normal School.

9. The legislature shall encourage, by all suitable means, the promotion of intellectual, scientific and agricultural improvement; and shall, as soon as practicable, provide for the establishment of an agricultural school, with a model farm in connection therewith. The legislature shall also provide for the establishment of at least one library in each township; and the money which shall be paid by all persons as an exemption from military duty, and all fines assessed in the several counties for any breach of the penal laws, shall be exclusively applied to the support of said libraries.

A motion was made to print the usual

number of copies of the report accompanying the article.

Mr. CHURCH—I object, Mr. President, to the printing of the report which the chairman of the committee on education has brought in with the article which he has submitted in behalf of that committee. Such a report is unprecedented in the history of our proceedings; it is in direct violation of the positive instructions of this Convention, contained in the resolution adopted on the 7th of June. There is no propriety, sir, in the making of such a written report, against the instructions I refer to, and against the practice we have heretofore established in this respect.

The printing of this report will increase the bill of expense, now too great, and which our necessary printing will make large enough. Nor can it be of any use. The subject this report discusses will be disposed of before the report can be circulated wide enough and sent far enough to make much impression upon the public mind.

The object of the resolution of June 7th was, that no pre-occupation of the public mind, by the peculiar views of a committee, should be attempted by written reports; that each article submitted to the Convention should stand for favor or disfavor upon the merits or defects of its provisions apparent upon its face.

Why should an exception be made upon this particular topic and as regards this committee? If there be here an especial desire to instruct us or to make a personal display, let it be done upon the floor of this Convention, in oral and open debate.

Did the chairman of the committee on the Legislative Department—whose article, lately presented to us, contained important and radical changes, reaching to the business and bosoms of men—make a long rhetorical report in writing? No, sir! He made a few verbal explanations, and those only because afflictive intelligence called him from this Convention.

Have the chairmen of other committees made such reports? No, sir! Print this report; make this a precedent; and by and by the chairman of the committee on miscellaneous provisions will make a written report, in connection with the article he may submit, as long as himself! I object, sir, therefore to the printing of this report.

Mr. N. PIERCE—I hope that the report will be printed. I do not know how members will understand the report without it is printed. I do not understand it yet myself, and I want to examine the printed report.

Mr. CORNELL—I think that it is an important subject; as much as any that will come before this Convention, and I hope that the report may go to the people to let them examine it. In the first session of the legislature after we became a State, a law was passed which would have rendered the schools nearly free. Many objected to it and the provision was rejected; so that many who were entitled to a free education were deprived of it. Now I think that the people are in favor of it, but still I think that it should be fairly presented, that public opinion may be fully formed. In the section that I have the honor to represent it is considered as important a feature as any in the Constitution.

Mr. HANSCOM—It is the first time in the whole course of my experience that I ever knew an attempt made to deprive a standing committee of the privilege of printing their report.

The committee on education have endeavored to engraft a new principle in the feature of our common schools, which, although just will meet with the most embittered opposition in some portions of the State.

The committee have chosen to present their reasons to induce the favorable action of the Convention, and justice to the committee, and to the people of Michigan, requires that the report shall be printed in company with the article, and I am surprised at the objection that has been made.

Mr. ROBERTSON—I hope the report may be printed. The gentleman from Kent [Mr. CHURCH] seems to have taken in the whole meaning. Dull people like me require a little more time. This body has ordered a committee upon an important subject. Much investigation has been given to the consideration of the subject, and the result is presented in the form of a report.

The committee have reported in favor of a change of vast importance to the people of this State. A change that I believe is called for by the largest number; at any rate, called for by the majority of the

northern part of the State. If the old system would enable us to have schools free, then I should be opposed to this system; but it does not. And we ought to adopt a system of free schools, and if we lay our reasons before the people, in the first place, by publishing the report giving them the views of the committee, more light may be thrown upon the subject. I therefore hope that the report may be printed.

Mr. CHURCH—I don't care much about the matter; but it seems to me it was the business of the committee to report merely the article. Such has been the usual practice. The committee on the legislative department presented an article which contemplated important and radical changes, and all the report that was made was a few verbal explanations made by the chairman. We should remember that we are not a legislative body. And I contend that in framing a constitution we should not have reports written to be printed in advance, giving the friends of any particular measure undue influence.

My only reason for objecting is, that the precedent shall not be established, giving an opportunity for personal display.

Mr. SKINNER—I am not only in favor of printing the report, but am in favor of printing a larger number. It is probably the most important measure that will come before this Convention. I hope it will be printed, as I should like to send some to my constituents. I move, therefore, that 800 copies be printed.

Mr. FRALICK—I would like to know what would be the number printed in the ordinary manner.

Mr. GARDINER—Four hundred and eighty.

Mr. COOK moved that it be laid upon the table in order to be printed.

Mr. CHURCH withdrew his motion.

On motion of Mr. SKINNER, double the usual number of copies of the accompanying report were ordered printed.

RESOLUTIONS.

On motion of Mr. ROBERTS,

Resolved, That the committee on printing be instructed to direct the State Printer to print the debates of this Convention in such form and on such type as they may deem prudent and serviceable.

Mr. ROBERTSON would like to know the object,

Mr. GARDINER said that many of the members were dissatisfied with the publication of the reports in the present form. The Convention passed a resolution, it will be recollected, that reports shall be published in octavo form, and this publication is in octavo form.

Mr. CRARY—What is an octavo form?

Mr. GARDINER—It is the usual octavo form on a medium sheet—imperial is double that of medium. I would say that the committee had suggested and agreed upon a different form; but on examination of the resolution of the Convention, we found that we had no discretion in the matter.

It is proposed to print the number ordered for distribution in the manner now done, and that the other for the book form, shall be printed in brevier type, like that of the Ohio Convention. The contract with the State Printer binds him to use the usual type. The brevier type cannot be procured here in consequence of the printer not being bound to use it. Therefore the committee thought it best that the usual number should be printed in the present form, and that the book shall be published in brevier type, as the present form will make a volume of an unwieldy size. The expense will be partly saved by compressing it in a small type. What the difference will be in dollars and cents, I do not know, but it will not be very material. A large amount will be saved in paper; the paper which is used is rather costly. Therefore, it was proposed that the committee upon printing have it printed in the form and manner that they may deem expedient. We ask that the Convention may give this power to the committee or take some definite action, as I am sensible it ought to be changed. The book will be placed in the archives of the State, and in every town in each county, and I think it ought to be a volume of a more respectable appearance than in the present form, and I think that a few dollars will be well saved by printing a better copy.

The resolution was carried.

On motion of Mr. McCLELLAND, the Convention resolved itself into committee of the whole and resumed the consideration of "Article —, Legislative Department," Mr. WELLS in the chair.

Section 17 was read. "The members

of the legislature shall receive for their services three dollars a day for actual attendance, unless absent from sickness, for the first sixty days of the session of 1851, and for the first forty days of every subsequent session and nothing more. When convened in extra session by the Governor, they shall receive three dollars a day for the first twenty days, and no more, and shall legislate on no other subjects than those expressly stated in the Governor's proclamation. They shall also receive ten cents for every mile they shall actually travel in going to or returning from their place of meeting, on the usually traveled route; and for stationery and newspapers not exceeding five dollars for each member during any session.

Mr. BRITAIN moved to amend as follows:

Add to section 17 the words: "Each member of the legislature shall be entitled to one copy of the laws, journals and documents of the legislature of which he was a member; but the legislature shall not at the expense of the State, provide for its members books, newspapers and other perquisites of office not expressly authorized by this constitution."

Which amendment was concurred in.

Sec. 18. The legislature may provide by law for the payment of all mailable matter received by the members, Lieutenant Governor and Speaker, but not for any sent or mailed by them.

Mr. BEARDSLEY moved to amend section 18 by inserting after "matter," in the first line, the words, "sent and," and by striking out, in the last line, the words, "but not for any sent or mailed by them."

Mr. B. said by retaining the section as it stands, we shall deprive our constituents of privileges, not the members.

Mr. McCLELLAND—I would say that the object of the committee was to prevent the practice that the gentleman who last spoke is in favor of. This is a practice that has grown up within a few years past, until the postage bill has been increased to an enormous amount. The committee thought it was not proper for the State to pay for matter sent by members to their constituents, for the reason that, as a general thing, members would not be able to send any legislative matter to more than 50 out of 1,000 of their constituents. That if the

matter was of any importance the constituents would be glad to receive it and pay the postage, and not compel the State to pay; thus granting a privilege to 50 persons, that you do not to the 950.

I think this franking privilege wrong in principle. You have a journal or other legislative matter to send; you don't send to your whole constituency, but to some particular friend;—obliging a few at the expense of the many. That is the effect of the practice which has recently obtained. Was there any complaint under the old rule?

A MEMBER—What was the reason that the new rule was established?

Mr. McCLELLAND—I cannot tell. No man has given a good reason for it. To show the difference, I will give some statistics: In 1843 under the old rule to pay the postage on mailable matter received, but not for matter sent, the whole amount of postage paid, was \$247 67. In 1849, under the new rule the postage bill was \$2,168 70; and in 1850 it was \$1,840 43.

I ask the members if it is right that, for the benefit of 50 or 60 out of 1,000, you should compel your constituents to pay a tax like this? If you give this franking privilege, I defy the legislature to throw guards around it so as to prevent frauds. I have been told that it has been the practice of members of the legislature as it has been the practice of members of Congress, to frank matter that did not come within the intent and meaning of the law; and I appeal to any post masters here present, to say if such frauds can be easily detected.

Mr. BEARDSLEY—It appears to me that if the doctrine laid down by the 18th section is carried out, it will deprive the constituents of their privilege. The gentleman from Monroe says that not more than 50 persons will receive the documents out of 1000. That may be so; but those 50 documents may be presented in such a way that all the constituents may read them. Fraud may have been practiced; but it appears to me that it can easily be prevented. The post masters can examine the documents, and it can easily be told whether the parcel is such as is allowed by law. I am speaking merely for the sake of the constituents. If we carry out

the doctrine, it will give the legislature a pretext for hiding their actions.

They may say, we cannot present you our proceedings because the State will not pay the postage, and we cannot afford it ourselves. And thus the legislature may hide their proceedings from the people, and a great deal of injury ensue.

With regard to letters, of course frauds may be practiced, and my amendment provides an exception being made as to letters sent.

I merely wish constituents to have the privilege of receiving legislative documents, postage paid by the State.

Mr. COMSTOCK—I should wish this provision to be retained, and I believe that nearly every member of this Convention will bear me out in my remark when I say that the matter sent is nearly useless. The journals contain no intelligible or certain information, as amended and changed in the progress of our proceedings, and what do our constituents know of the final result of measures from the journals sent; and without the articles and all the journals, what connection is there, and how can they understand them?

It is our duty to guard against all expense, even if it is a small amount; it is our duty to guard the treasury, and this matter has grown to be such an abuse that it ought to be stopped.

I shall be in favor of extending this privilege with regard to this Convention; but I consider the sending the journal as merely complimentary. What we send to-day may be altered to-morrow; hence, it is nearly useless.

Mr. REDFIELD—I am in favor of restricting the franking privilege. The amount of the postage has been shown, and the privilege is confined to a very few who receive but little benefit from the occasional numbers sent. They are sent irregularly; they contain nothing that gives an idea of the chain of business. If cut off entirely, the community would be better off, the public journals would be better supported; many would become subscribers to a public paper instead of depending upon an occasional document. They would then come in possession of something tangible. Thousands would do this and then lay them away as papers of reference, and I wish that the franking privilege might be entirely abolished.

Mr. BUSH—The gentleman from Monroe said that there was a great difference between the expense of the postage between the years 1843 and 1849. I am in favor of the provision of the committee as it now stands; but I wish to explain how so great a difference came to exist. In 1843 any journal might be sent without pre-payment of postage—under the present law, no document can be sent unless pre-paid, so that the postage must fall upon the member—that was the case in 1849. The Legislature has been in the habit of sending out documents, and under the old law they had a right to send them, but by the present law they cannot go without they are pre-paid.

Mr. COOK—I was a member of the legislature in the year 1848. A good many members were opposed to it. My vote is recorded against it. It is better to have a provision of this kind and I should be glad to see it adopted here, although the Convention have thought otherwise. The reason why this was passed was, that Congress had altered the law, that no document should be sent except pre-paid, prohibiting thereby the practice which had been adopted before, allowing the members to send them and the constituents to pay. Under the circumstances, the members not being willing, probably not able to pay all the postage, it was thought best by the majority to send some at the expense of the State.

Mr. VAN VALKENBURGH proposed to amend—"except the documents of said legislature." Our duty to our constituents demands this at our hands; it is a practice that has been followed for a number of years and they expect it from us. They have a right to know what their servants are about, while we are here in the capacity of legislators. Shall we shut them out? Shall we not let them look at our proceedings, and are we not in effect doing it when we say to the members, you shall have no power to frank documents to them? I am in favor of radical reform, and I would begin at home. I would reduce the pay of members to less than three dollars per day; but I would not shut out from our constituents all knowledge of our transactions. Is it just; is it right? Will they not say that we are liberal only when our own interests are con-

cerned; that we are in favor of continuing the highest per diem allowance while we deprive our constituents of the pittance of a journal. It has been said that but a few of our constituents obtain the benefit of these documents. How can that be? We scatter these documents through the country. They are read by the whole neighborhood—they are read with avidity. They desire to know what their servants are about, and it appears to me that only those who are afraid of retributive justice which will follow them, are in favor of this shutting out their proceedings from the public eye. I hope that this will prevail. I hope that we shall show ourselves to our constituents in a proper light; that we shall not be afraid to have them look into our conduct.

It was said by one gentleman that he should be glad to have the eyes of the whole State upon us. I should be glad to have the eyes of every constituent upon the legislature, to restrain them in those wanderings which legislators are sometimes guilty of. I hope it will prevail.

Mr. S. CLARK—I think there is some mistake. I wish if there are any postmasters here they would state how the matter is; but, as I understand it, newspapers only must be pre-paid; not public documents. But whether so or not, I am opposed to the amendment. The documents that we send out are mere trash, which those who receive them will not read. I do think that we should incur no unnecessary expense, and that the practice should not be allowed.

Mr. CRARY—The arguments of the gentleman from Oakland [Mr. VAN VALKENBURGH] seem to be that we are afraid of our constituents. I should like to know how any expression can be obtained in a session of forty days. It is not likely that our constituents will get much light until the end of the session, at which time they can get full information in a proper manner and in a proper form.

Mr. BRITAIN said—Mr. President, the evils of this practice of printing and sending the journals and documents by members of the legislature to a few of their constituents, at the expense of the State, are too numerous to be perceived at a single glance. A person must be intimately acquainted with the details of legislative

business to see all the evils resulting from it. I do not propose to speak of the evils to which the attention of the committee has already been called, but will allude to some of them, to which the attention of the Convention has not been called.

If you authorize the sending of journals and documents at public expense, every man will, as he has a right to, expect them sent to him; and yet, if a member devote his entire time to it, he could reach but a few of his constituents; and the first man he meets on his return home may be a neglected one, who may say with truth and with a significance which few members can misunderstand, "Why, I have not heard from you during the session!" Such persons feel themselves aggrieved and neglected, and well they may; for how can the legislature be justified while taking money from the pockets of one portion of their constituency to pay for printing and sending journals and documents to another portion of them?

But the expense of printing and of postage on these unequally distributed favors is not all. It requires the time of the members here, which ought to be devoted to public business; and the noise, rattling and confusion unavoidably occasioned by the folding, enveloping and superscribing of these documents, often render it difficult and sometimes impossible for members to hear amendments proposed, or even made to bills—draws the attention of members from the legitimate business of the house, and brings them to vote upon questions to which they have paid no attention, and thus not only renders the legislature an inefficient body, but its legislation even dangerous.

Nor is this picture at all exaggerated—it has been so heretofore—it will be so hereafter, so long as the process of folding, enveloping and superscription of these documents is permitted during the business hours of the respective houses.

I now wish to ask the Convention, if there is any necessity for continuing this unjust and expensive system? Is there no other way in which legislative proceedings can reach the people upon more equitable terms; and if so, are we not morally bound to provide it?

If the Convention will permit me to trespass a few moments longer upon their time,

I will point out a much better way in which I think legislative proceedings can be furnished to the people. Require your State Printer to furnish by mail to the publishers of every newspaper in the State, copies of the documents, bills and daily journals printed by him for the State; these publishers could publish said proceedings as cheaply as any other reading matter, and would of course publish them whenever desired by public sentiment. The public having their attention directed to the subject, would at once perceive that every subscriber for a newspaper could be furnished with legislative proceedings without any inconvenience or additional expense to himself, and would at once demand it. In this way you would not only secure increased patronage to the publishers, by rendering their columns more interesting to the reading public, but by the expenditure of the small sum of from one dollar and a half to two dollars per day, during the session, for printing and postage, you save the time of your members of the legislature, remove one great cause of noise and confusion from each house, leave the undivided attention of members for their legislative business, and save the State from an expenditure of from three to four thousand dollars annually for printing and postage, and that, too, from being drawn from the pockets of all the people for the purpose of sending now and then a document or journal, to but a small portion of the people; and I trust that this Convention will at once and forever put an end to a practice so impolitic in its expenditure and so unjust in its operation.

Mr. J. CLARK—I have had the honor and the pleasure of being a post-master, and I would state to the Convention that the law of Congress gives post-masters and legislative bodies certain privileges. All public documents are permitted to pass through the post-office without being prepaid. Therefore I am opposed to the amendment of the gentleman from Eaton.

It seems to me that the Convention must see the necessity of putting a check upon the expenditure of the Legislature in future, if they intend to be as lavish as they have been.

Another point, sir; if we continue the system that we ourselves are pursuing, we shall be ashamed to return home with a

statement of the expenses that have been incurred for postage by this Convention. I suppose that the expense has already amounted to two hundred dollars; and what for? For the journals, &c., useless to the people, that you see thrown upon your floor before your clerk. And unless you take steps to prevent it, it will be productive of much mischief. To prevent this, I was in favor of allowing each member more than three dollars to arrange his postage matters, as well as the stationery he would require. Members should not have the State pay these expenses. Let members pay it themselves, and don't let it be charged to the State. If five dollars are not enough, let us give them ten dollars; but let us fix the amount. If in one session of the Legislature nearly two thousand dollars were spent for postage, six or seven hundred will be spent by this Convention.

Mr. HASCALL—These legislative documents are scattered all over the country indiscriminately. Men frequently receive four or five copies of documents and journals of the same kind and the same date, all prepaid by the State, and only one of which can be of any possible use to the receiver; thus, absolutely throwing away the money of the people, without any substantial benefit therefrom.

I recollect, during the last session of the legislature in Detroit, being the publisher of a newspaper, of receiving some half a dozen or more of the journals of each house, of the same date, from various members and Senators, with three cents postage paid on each. All, but one copy of each, were absolutely worthless to me, and were destroyed as waste paper. This is the experience of every publisher in the State.

As these documents can, at best, be received but by a few persons. they can furnish no general information. Therefore, it is unjust to tax those who do not receive them, and require them to pay for what is enjoyed by others.

Again, the system is unjust to newspaper publishers, whose papers ought to be looked to as the source for legislative information; and much more pains would be taken by publishers to give full and accurate accounts, were they not forestalled by this indiscriminate distribution of jour-

nals, &c., throughout the country. The matter should be corrected, and much useless printing will be saved thereby. Let us set the example here, with the hope that it will be followed by the legislature.

Mr. BAGG said: Mr. Chairman, I perfectly agree with the various gentlemen who have preceded me in this debate, in regard to the journals sent daily from this body, particularly with the gentleman from Berrien. One word with regard to newspapers. Sir, for the last week I have been so disgusted with the trash of matter, in the form of newspapers upon our tables, that I have read nothing but the deaths and marriages. While a majority of them, through the medium of their scribblers or correspondents at this place, have perverted the truth, and given a false coloring to the action of this body, of individual members on this floor; the other portion labor to puff up and sustain the most indolent, lazy and corrupt members, without giving any credit to industrious members, who are always laboring in committee or are found in their seats in this hall. They give to our constituents and the world any thing but the truth of the deliberations of this body. Our constituents will remain in the dark on these subjects, until they receive a correct copy of the debates and proceedings of this body from the hands of our reporters. By analogy, the same results may be anticipated in our legislatures. Therefore, I hope the section as reported by the committee, will remain without amendment.

Mr. CHAPEL—What I have to say, is this: I am one of those who believe that the publication and distribution of all these matters at the expense of the public, are wrong. It has been my fortune heretofore to have been a constituent, and the public men of my county have usually sent me documents. Some days I received a number; in three or four days I received another lot. They are worthless. They cannot be kept on file. They merely fill up drawers as waste paper. What is the object of laying upon our tables a dozen journals, and paying the printers for printing, when more than a single number is of no benefit to us? Yet men get up and say that the practice ought to be continued. Sir, it is the practice of a few men to *haw and gee*, so as to try and make capital. The peo-

ple at large are not benefited by it, and would remonstrate against it. I urge that those who are really in favor of reducing expenses, now come up to the scratch, and say that they will save money by reducing the number of those journals. I will go in favor of abolishing all that is extra in these journals. I don't believe that, except to know what A. B. and C. said upon some little subject, it will effect any good. I would rather go for printing 3,000 copies of the whole proceedings, and send them through the country; then we shall have something that will be laid upon the shelf for a reference; something that will be valuable for a future time. Then we shall have the worth of our money; but by the present system, money is spent, and we get nothing worth having.

Mr. VAN VALKENBURGH—I would inform the gentleman that I apprehend the object is, that the matter may be distributed among our constituents, that they may know what we are about. The gentleman wants some heart work. When we vote upon our per diem allowance we show our sincerity, and not when we refuse the prayers of our constituents for the pennies of a newspaper.

The gentleman says that he is willing to have two or three thousand copies printed when the whole proceedings are finished. Would that save any expense? Would not his constituents be better satisfied to learn his proceedings day by day? Would not the eyes of the constituents be more immediately upon their representatives? The gentleman from Calhoun tells us that the members will hereafter come here for forty days, and that the constituents will not have time to send an expression to their representatives; but sir, they will have an opportunity of keeping him at home, if they are dissatisfied with his vote. The object is to know whether they are properly represented, or are misrepresented. The people have called for reform. We have been sent here for the purpose of making great reform. They desire to know what we are engaged about. They want to know whether members are willing to vote for three dollars per day, and close their purses and the treasury when the question of a few documents to give to the people is presented.

Mr. N. PIERCE—As the gentleman

from Oakland is so desirous of reform, he can pay the postage himself, out of his three dollars per diem, as he thinks two dollars enough. Fifty cents per day would effect the purpose; he would then have a balance of fifty cents in his favor. If the people of Oakland had been called upon to pay this tax of \$1,800, would they have voted so to have spent the money?

We are all engaged in one object; yet we may have different views to effect it. He charges the Convention with being illiberal; talks about the pennies. If he chooses to pay the pennies out of his own pocket, this Convention will have no objection. I shall pay my postage myself, rather than have it taxed to my constituents, which cannot be sent to one in ten. It is impossible to send to one quarter of the people, and I think that the privilege of making a tax of two or three thousand dollars is wrong; and I hope that the report of the committee will be adopted, and that it will be carried.

The amendment of the gentleman from Oakland [Mr. VAN VALKENBURGH] was lost.

The question was taken on the motion of Mr. BEARDSLEY, and lost.

Mr. WOODMAN—Before the reading of the next section, I ask to make an explanation with regard to the proceedings of yesterday.

Leave being granted,

Mr. WOODMAN said—When I made the statement yesterday, and referred to one of my constituents, I did it with no unkindness to the gentleman, and with due deference to my friend and colleague.

It was not made from the impulse of the moment. I am intimately acquainted with Mr. Barrett, and I did not wish to do him injustice. But, inasmuch as Mr. Barrett has been quoted as authority; as my colleague has said that he has been instructed by the people of Oakland in favor of a reduction of the per diem allowance; and upon further inquiry the instructions from the people of Oakland resolve themselves into a letter from Mr. Barrett, and as I know the course which that gentleman has taken, I consider that it comes from a very questionable source. I referred to his past vote in the legislature of 1846; and after I had made the statement, Mr. VAN VALKENBURGH procured a copy of the journals and

undertook to show that he voted for \$2 per day. My object is to state the facts, that I shall not be looked upon as endeavoring to injure Mr. Barrett. The first that we find about Mr. Barrett's vote, is in the journal of the House, 1846, page 30, where in the case of a contested seat by Linus S. Gilbert, Mr. Barrett voted to give him two dollars per day. The question the following day, January 10th, recurring on the per diem allowance of members, Mr. Barrett did vote to strike out three dollars; but on the final passage of the bill we find his name in favor of three dollars per day. Gentlemen may turn to the 37th page, after he had voted to give Mr. Gilbert two dollars, and see when it came to his own pocket, he voted for three dollars, and so the bill was passed. I make these remarks to prevent myself from being placed in a false position, and I tender my thanks to the Convention for the opportunity of an explanation.

Mr. VAN VALKENBURGH—In justice to myself, I feel bound to make an explanation, for I find that I am placed in a delicate position. During the discussion yesterday, a friend handed me a copy of the journal of '46. I barely looked at it; upon examining it more carefully I find that his previous votes were in favor of two dollars per day, his final vote was for three dollars per day. He found that his efforts were unavailing, and so he voted for three dollars per day. So, my colleague is correct, I am correct, and Mr. Barrett is superlatively correct.

Section 19. "The President of the Senate and the Speaker of the House of Representatives shall, in virtue of their offices, receive an additional compensation equal to one-third of the per diem allowance of the members; but the President *pro tempore* of the Senate shall receive no additional compensation except when the Lieutenant Governor shall not be paid for officiating as President of the Senate."

Mr. HASCALL moved to strike out all after "shall," in the first line, and insert the following: "receive no additional compensation in virtue of their offices."

Mr. H. said—Their labors are not more arduous; it may be said that they occupy a more dignified position; but I consider that the people of this State ought not to pay for dignity.

Mr. McCLELLAND—The pay of the presiding officers has been double the pay of the members; and while the committee thought that might be considered too much, yet they believed that some additional compensation might be proper. One reason was, that the presiding officer has very arduous duties to perform, that members generally know but little about. It is the duty of the presiding officer to see that the journals are made up properly; they are always reviewed by the presiding officer in the morning, to see that they are accurate and correct. To understand parliamentary law and the rules so as to preside with dignity and respectability over such a body, requires much study, observation and practice, and few have any knowledge of the time necessarily devoted to this task.

The committee thought that a double allowance was too much, so they adopted the practice of the State of New-York, and allowed him one-third more. It is well enough, although I have no great objection to the amendment of the gentleman from Kalamazoo.

If, however, this section is stricken out, the legislature may give a double allowance to the Lieut. Governor and the Speaker. It is a question whether, under the present constitution the legislature have a right to give any extra compensation to the presiding officer; but such has, I believe, been the invariable practice, and what the majority of a legislative body wish to do, they will usually do in some way or other.

The amendment was adopted.

Section 20:

"No member of the legislature shall receive any civil appointment within this State, or to the Senate of the United States from the Governor, the Governor and Senate, from the legislature, or any other State authority, during the term for which he shall have been elected, and all such appointments and all votes given for any such member for any such office or appointment shall be void; nor shall any member of the legislature be interested, either directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the time for which he shall have been elec-

ted, or during one year after the expiration thereof."

On motion of Mr. McCLELLAND,

The 7th line of section 20 was stricken out, and the following inserted after "elected," in the sixth line: "and for one year thereafter."

Section 21 and 22 were read:

Sec. 23. Every law shall embrace but one object, which shall be expressed in its title, and no public act shall take effect or be in force until the expiration of ninety days from the end of the session at which the same may be passed, unless in case of emergency, the legislature, by a two-thirds vote of each house, shall otherwise direct.

Mr. BUSH moved to amend by striking out all before the word "which," and insert "no law shall embrace more than one subject."

Mr. B. said—I will briefly state my reasons for the substitute. I think that "no" is in better taste—more in accordance with the language of our legislation. A subject may be presented when the object is as far from it as the north is from the south. I want to have our Constitution so clear that it cannot be mistaken. A man may make a pretext—an object may be professed, when the subject may be very different. The subject should always bear upon its face the object. I think that the language of the amendment is better. It cannot be misunderstood. If it is, it is done so wickedly.

Mr. CRARY—Suppose the legislature should grant a charter for a railroad. A great variety of subjects might be embraced, but the law has but one object. The bill may refer to roads, the taking of lands; and if the present substitute were adopted you would have to pass fifty different laws, for it might embrace fifty different subjects.

Mr. BUSH—Some subjects of legislation may bring to our minds facts which it would be well to remember. I remember a law which was passed authorizing a company of men to grant policies of insurance. The object of the legislature was the insurance of property. The object of the company was to issue bills of credit—in fact to make a bank. I can enumerate many that were carried out with an entirely different purport. The object of a law may be very different from its subject. If the amendment prevails, that the law

shall not embrace more than one subject, it will not be misunderstood, and I think, in the minds of those who make the law, the language could not be so construed as supposed by the gentleman from Calhoun.

Mr. J. D. PIERCE—I apprehend that neither the clause nor the amendment will reach the object aimed at. In the bill headed “appropriations,” clauses may be made appropriating money for public purposes. The general subject is appropriation. Therefore it has not been reached by the report of the committee or the amendment.

Mr. GOODWIN—The constitution of the State of Louisiana says: “Every law passed by the legislature shall comprise but one object, and shall be embraced by itself;” and I have been told that questions have arisen as to the validity of the general laws.

Mr. BUSH—I think that it is necessary for me to go to school and commence a system of education of the English language. I ask any learned gentleman here, to explain how we ought to express the subject of a law? The subject is the thing treated of; the object is the motive.

Mr. WILLIAMS thought the gentleman from Ingham [Mr. Bush] entirely right. “Object,” means the thing struck at—aimed at—the thing hit. “Subject,” means the thing controlled—brought under—embraced. The subject is one thing, the object another. Object embraces the motive and design, and oftentimes both the promoters and makers of laws have a very different object from what the title would propose. He believed that “subject” was the most definite and least liable to misconstruction, and conveyed the meaning which the chairman of the committee intended to convey.

Mr. BAGG suggested to amend by inserting, “nor shall embrace more than one object in the same subject.”

Mr. CRARY—If the proposition of the gentleman from Ingham is carried into effect, no future legislature can consolidate our laws. If the legislature order a revision, it will be utterly impossible for them to have it. The object is revision, but each law would have to be revised by itself.

The amendment was lost.

On motion of Mr. McCLELLAND, sec-

tion 23, line 1, was amended by striking out “every,” and inserting “no,” and by striking out “but,” and inserting “more than.”

Mr. BUSH moved to amend said section by striking out “object,” in first line, and inserting “subject.” But the committee refused to strike out.

On motion of Mr. RAYNALE, the words “in case of emergency,” in third line of section 23, were stricken out.

On motion of Mr. MORRISON, the words “all the members elected to,” were inserted at the end of third line of section 23.

Mr. HASCALL offered the following:

Amend section 25, 4th line, after the word “security,” by inserting as follows: “for the performance thereof, in the manner following; with such other conditions as shall be prescribed by law:

1. All printed matter except bills and resolutions shall be set solid, and as compact as the nature of the case will admit.

2. Bills and resolutions shall be done in the usual manner, and the price of composition shall be one-third that of solid matter.

3. Blank pages or fractions of pages shall not be computed in the estimate of composition, and no charge except for reading matter actually set shall be allowed.

4. No division of sheets or multiplication of signatures shall be permitted for the increasing of press work; and only the smallest amount of press work of which the nature of the particular kind of work is capable, shall be allowed.

5. All printed matter called for by the legislature shall be ordered by the token.

Mr. HASCALL said, that the object of this amendment was, that when a man entered into a contract with the State, to do the public printing, he should understand the manner in which the work was to be executed, in order that he might regulate his bid accordingly; and that he might conform to some specified standard in doing his work, and in making up his accounts therefor. The want of such specific provisions heretofore had left the door open for that wholesale system of plunder which had been practiced by our printers to the State since its organization.

By this amendment it is proposed in a great measure to prevent this hereafter.

The first clause provides that all printed matter except bills and resolutions shall be set solid. The object of this provision is to prevent the matter from being "*lead*ed," in printer's phrase—that is, that a thin strip of lead be put between the lines, in order to swell the matter out and make more "*thousands*," by which the printer gets pay for an extra quantity of matter. A frequent effect of this "*leading*," as members will see by reference to our journals, is to swell out what, if solid, would make but one page, and by that means make a fraction of another page. By printer's rules this fraction of a page, although there be no more than two lines upon it, counts just as much as if covered with solid reading matter; and I believe with our *State* printers the license is carried so far as to make the entire blank pages of our journals count, whether there be any reading matter on them or not. Hence they frequently get more pay for blank, than for printed matter. By the amendment every thousand ems charged to the State must be for actual reading matter set. Bills and resolutions are excepted by this clause, and are not required to be set solid. You will perceive that the lines are set much wider apart in these than in our journals. Thick strips of wood, called *reglets*, are placed between the lines, in order to allow the insertion of amendments. By the second clause, I propose to allow one-third the price of solid matter, for their composition; although there is not probably over one-quarter the amount of matter in them that there would be if solid, yet it requires some labor to insert the *reglets*.

To prevent charges against the State for the immense number of blank pages, which we every year see on our legislative journals, and which, on an average, equals, if they do not exceed the amount of actual matter set, I propose that no blank pages or fractions of pages shall be charged for. I venture to say that the State, as far as journals, bills and resolutions are concerned, has paid much more for blanks which have been counted as reading matter, than for reading matter itself. It is true that this clause comes in conflict with the general custom of printers. They

have a rule by which they are entitled to count blank pages, when publishing a book, and where these pages are of rare occurrence; but I contend that it is altogether too liberal a construction of the rule, to count these blank pages in our journals, which are printed daily, and contain as much or more blank paper than printed matter. I believe no disinterested printer in the world would sanction this. I therefore propose to so alter the license of printers as to take away this privilege entirely, which when exercised justly and in the true spirit of its intent, does not much benefit the printer—and to say to the contractor, if he thinks this is going too far, he must increase his bid, before taking his contract, with reference to the prohibition. In no other way can this tremendous flood gate to the treasury be shut down.

The fourth clause provides "that no division of sheets or multiplication of signatures shall be permitted for the increasing of presswork; and only the smallest amount of presswork of which the nature of each particular kind of work is capable shall be allowed." The object of this is to prevent a practice which has prevailed among our *State* printers, of so dividing their sheets and arranging their matter in the forms, as to create what is called constructive presswork; by which double the actual amount of presswork done is charged for; thus securing for themselves twice the amount of compensation contemplated by the officers of the State when entering into the contract.

The fifth proposition is that "all printed matter called for by the legislature shall be ordered by the token." A token is 240 sheets, and only pay therefor can be charged; whereas, if 300 sheets were ordered, 480 would be charged for in consequence of the fraction over one token—that is, two tokens would be charged for. It is further proposed that the contractor, when he presents his account to the State for payment, shall make an affidavit that the work was performed and his charges made in accordance with the conditions of his contract; into which the restrictions proposed by this amendment will enter. My reasons for the whole action I have taken are, that those whose duty it may be to contract with printers, may not be

deceived by an ignorance of their usages, and suffer themselves or the State to be imposed upon. Our past experience admonishes us that these guards are necessary; for no one evil has been more expensive and grievous to the State, than the advantages which have been taken by our public printers. By private individuals these licenses of the printers would not be suffered without legal resistance. But on the part of the State, they have been tolerated, because the burdens have been borne by the people at large, and no one man has thought it his duty to make any resistance. Another great good that will result by the adoption of this amendment, will be that it will improve the character of the work; inasmuch as these efforts of the printers to swell it out by leading, &c., will be prevented. It seems to me these objects are so important that they should be provided for in the Constitution, in order that it may be impossible for the legislature to be controlled by party or corrupt considerations, and at some future time break down the barriers here interposed between avarice and the treasury.

Pending the question,

On motion of Mr. GARDINER;

The committee rose, reported progress, and asked leave to again. Leave was granted.

Mr. HANSCOM offered the following resolutions:

Resolved, That from and after this day, the post master of this village be not authorized to charge to the Convention or State any postage on any mailable matter sent or mailed by members or officers of the Convention, and that the Secretary notify the post master accordingly.

Resolved, That from and after this date, there be printed for the use of the Convention but 240 copies of the journal.

Mr. STOREY offered the following as a substitute:

Whereas, The amount of Buncombe that has been expended by members of this Convention this morning, on the subject of postage, has cost the State more money than all the postage of members is likely to amount to; therefore,

Resolved, That the whole subject be dropped.

Mr. WHITE moved to adjourn; but the motion did not prevail.

Mr. J. D. PIERCE moved to lay the resolution of Mr. HANSCOM on the table, which was lost.

The substitute offered by Mr. STOREY was not adopted.

The question recurring on the adoption of the first resolution, the same prevailed, yeas 81, nays 2.

The second resolution being under consideration, the same was adopted.

On motion of Mr. MORRISON,

The Convention adjourned.

Afternoon Session.

The Convention was called to order by the PRESIDENT.

Mr. ROBERTS offered the following; which was not adopted:

Resolved, That the committee on supplies be instructed to direct the carpet on the floor of this Hall to be removed, and such arrangements made as they may deem conducive to health.

On motion of Mr. ROBERTS,

Resolved, That the resolution authorizing subscription for newspapers, equal to two daily papers, be and the same is hereby rescinded, and the post master be requested to give notice to publishers to that effect.

On motion of Mr. McCLELLAND,

The Convention resolved itself into committee of the whole on "Article —, Legislative Department," Mr. WELLS in the chair.

The question being on Mr. HASCALL's amendment,

Mr. ROBERTS offered the following substitute for section 25:

A State Printer shall be elected at the same time as State officers are to be chosen, and hold his office for a like period. He shall be a practical printer, and the prices to be paid him shall be fixed at forty cents for the composition of every thousand *ems*, and forty cents *per white token* for press work.

I am in favor [said Mr. R.] of the substitute from the fact, that in the several States where they have tried the contract system, and in Congress as well, it has proved a failure. In the States of New-York and Indiana, I recollect particularly, they have been obliged to fall back upon the printer elected by the legislature or the

people. The trial that was given in this State for a short time proved a failure. In respect to the prices set forth, they are no more than reasonable, as can be ascertained by reference to any practical printer. And I am of the opinion that a practical printer is the most fit person to guard our printing, so that it will be properly done; and I do it because I would guard that useful fraternity against pettifoggers, pill pedlars and other quacks who become connected with the public press.

Mr. GARDINER—I have trespassed but little upon the time of this Convention, nor would I do so now, did I not feel a deep interest in the question before this Convention. This is a question which ought to be settled, and settled in such a way and manner, that there shall be no dodging; that we should leave nothing for future legislatures to debate upon; losing time and spending money, and at length, after all they do, or have done, get cheated at last. This question has been a bone of contention from the earliest period of our existence as a State, and even before that time. The debates and time consumed upon it have cost this State over \$100,000. And yet I can see by the movements of this Convention that they are totally in the dark. After all the time and money spent, few of us know but little about it. When we were a Territory the printing was divided among the presses of Detroit. The legislative council paid \$1.25 for every 1000 ems and \$1.25 for every white token, and no outcry was made, because every paper received a slice. The legislative council afterwards gave their printing to one press; paid them 63 cents per 1000 ems and 63 cents per white token, and immediately every paper in the Territory was out upon them for being so basely cheated in the contract. From that time to this, it has been a bone of contention, until at last it is now reduced to 27 cents per 1000 ems and 27 cents per white token. And many say that it is not reduced enough, while I hazard the assertion, that if a printer does it for less than 40 cents each, he must purloin from the State to make it up. No printer can do work for the State, or any other person, for less than that sum and live by it. I appeal to my brethren in this house if this is not the fact. Yet the printing is done for 27 cents

per 1000 ems and 27 cents per white token. It has been heralded forth that the people were making a great saving. The saving has been a few hundred dollars, wrung out of the printer, while members were putting in their pockets thousands. The legislature struck at the printers in the dark, and hit the public purse a great deal harder blow.

I have nothing to say about the system proposed by the gentleman from Kalamazoo. He has let down the bars, and I shall walk in. I am opposed to his resolution; for, notwithstanding all the guards, the door is still open, and it will be entered by whoever contracts for the State printing. He has told you that a blank page is paid for by the State. So it is; and so is the blank page upon the opposite side. Every journal is so charged, or it is not done according to rule. It is a rule of the craft; and I very much doubt whether you can alter it at the present time, as it has been a rule from time immemorial. But the door is still open, and printers will take advantage of it to make up for the difference in the contract price. They will take advantage of inexperienced men, even although they may be State officers, that will make up to him something equivalent to forty cents per one thousand ems, and forty cents per white token; and he must do this, or he cannot live. Now, a member cannot go into the country and get a pamphlet printed for less than forty cents; and the reason that the State of Michigan gets it done for less is, because the printer expects to make it up in some other way. I have examined none of the printing bills, but I know this to be the fact—that he must get that amount to be able to live.

I am in favor of the substitute of the gentleman from Chippewa, with one slight modification. That the legislature shall fix the compensation, and that it shall neither be increased or diminished during the term for which he is elected, and that a fair compensation shall be paid; thus doing away with the incentive to fraud.

The contract system has failed. The printers have resigned their contracts;—that is, they have thrown in petitions to be relieved from them. Now, to look at your own work, examine your own session laws, and see how the work is performed. I remember some six years ago, when my

friend who is gone, had the printing at 17 cents per 1,000 ems, a package of laws was received, which I wished should be sent back to Detroit, as page after page could not be read; and you may depend that, if under the contract system, it is taken too low, but a few years will elapse before it will be thrown back, and the legislature will spend thousands of dollars in agitating the subject. Therefore, I want it settled by this Convention. Let the legislature have but little to do but pass the printers' bills and make appropriations. It has a bad effect. The people have been told you can get the printing done so and so; and so you can, if the means to which I have alluded are resorted to; but I would ask if it is better so to do, when we consider the frauds which must attend the contract system. It would pay the State of Michigan to employ a practical printer to audit the printer's accounts, if it cannot be got at any other way.

I am opposed to Mr. Hascall's resolutions on another ground: He says that bills and resolutions shall be done in the usual manner, and one-third the compensation for the price of solid matter, shall be paid for them. Here is the door wide open. Who among you can discriminate or compare the solid or open matter? How is it to be measured? How many thousands of ems are contained in the page? Are there five men here who can tell, except they are practical printers, or can tell any thing about it? Printers do not often come into a legislative hall. For many years there is not one to be found; and they are the only men who can tell whether a bill is correct. If the matter is not under the supervision of a practical printer, the legislature is liable at every step to be imposed upon, and does get imposed upon. I believe that the State of Michigan have paid for hundreds of thousands of ems and tokens which ought not to have been charged for; and these facts could readily be pointed out. But, what is gone by and paid for, it is idle to recall.

But, sir, I do want that no more frauds shall be committed upon the legislature and upon the State. I want the demagogical spirits shut out, so that it shall not excite the angry passions of the people. Who foots the bill? The people—the tax payers. They pay for the frauds and the

expense of the excitement which is made. And I repeat, that I hope the Convention will settle the matter by a fixed system, and a fixed price. If the contract system is adopted, I believe that a few years will only elapse before we shall again be without rudder or anchor. Therefore, I hope this Convention will settle this matter at once and forever.

Mr. McCLELLAND—The committee endeavored to throw all the guards around it that they could; and if members will see to it, they will find that it is better protected than any other provision. The subject has been a good deal agitated, sometimes by one party and sometimes by the other. I remember the first time the contract system was pressed upon the legislature. I was in the legislature when the individual, to whom the gentleman from Washtenaw alludes, took the contract. He had not the means to do it well; and for that reason the contract failed on his hands. But I would ask has there been any one question more thoroughly discussed and decided by the people than this question of printing? For the last two or three years, I defy men to point out to me more than one or two of the public presses that were not in favor of the contract system. I will go further, and refer to the conventions in the different counties—to the convention at Jackson the last year. And I doubt whether there is a single resolution relating to the subject, that did not shadow forth the principle contained in this section.

You have all the people, all the public presses, and both political parties in favor of it. And can you hesitate? Is not our path clearly marked out, and ought we to swerve from it?

I have voted in the Legislature and in Congress to let the printing by contract, and was urged to do so by printers, and never have regretted my votes. It is said the contracts are not performed, and that the prices are too low. But why do they take these contracts for a less price than they can afford? Because they can get the Legislature and Congress to relieve them, by not enforcing the terms of the contract, and generally granting afterwards full compensation for what they had done under the contract.

I will refer to a well known case. The

printing of the Senate and House of Representatives was to be diminished some 20 per cent. below the long established rates. That would have reduced the aggregate amount of printing some \$50,000. On the very last night of the session, if I am not mistaken, the old price was restored, and the printers got for the printing every farthing they would have received at the old rates. It has worked well, with one exception in this State, and I believe if there are any practical printers in the Legislature, guards can be thrown around it so that frauds cannot be committed upon the authorities of the State.

Entrust it to such men as the gentleman from Washtenaw, [Mr. GARDINER,] and the gentleman from Kalamazoo, [Mr. HASCALL,] and the interests of the State would be perfectly safe.

Why cannot printing be let by contract as well as anything else? The Legislature can see whether the work is done properly; and if they would consult practical printers, there would be no difficulty whatever in ascertaining whether any deception has been practiced.

You require bonds to be given by the contractor, and in ninety-nine cases out of one hundred, if the contract is found to be a hard one, the contractor comes forward and asks relief from the Legislature; and although sometimes delayed, the relief has generally been granted. Do as an individual would do—make him perform his contract. You might have some difficulty at first, but not afterwards.

Mr. HASCALL—The amendment of the gentleman from Chippewa, [Mr. ROBERTS,] merely contemplates a change in the section under discussion, so that the public printer may be elected by the people, instead of establishing the contract system. This does not at all interfere with the amendment offered by me, prescribing the manner in which the work shall be done, and regulating the mode of rendering an account therefor to the State. It is for the Convention to determine which system it will adopt; but in either case, I insist that my amendment ought to be sustained as a criterion by which the public printing shall hereafter be done, whether by contract, or by a State printer elected by the people. I have attempted to strike at those prominent abuses by which

the State has heretofore been so grievously wronged and fleeced. Had the restrictions which this amendment throws around the public printer, been placed in the original constitution of this State, the people would be to-day one hundred thousand dollars better off.

I have no objections to the price which the gentleman from Chippewa [Mr. ROBERTS] prescribes. It is little enough if the work is done honestly and well. The old prices were fifty cents per thousand for composition, and the same price per token for presswork. Modern facilities, however, are so much improved, that these prices may be reduced to forty cents, and the printer still stand on as good footing, as under the old prices fifteen or twenty years ago. I agree with the gentleman from Washtenaw, [Mr. GARDINER,] that at the prices which the present State Printer receives, he must steal to make a living. But I do not believe in the principle; and hence I wish to prescribe the manner in which the State work shall be done, and let the contractor, when he makes his bargain, look out that he puts his price at such a notch that he can save himself by it. If he will insist on taking it under price, he or his sureties must suffer the consequences; but I do not wish to see the State suffer, as heretofore, by the loose and miserable style of printing which our legislative journals and documents have constantly exhibited.

I know, sir, that human nature is weak. I am not prepared to say that if I should ever arrive at the honorable station of public printer to this State, which is not probable, and should find the door open, inviting me to the temptations which have surrounded those who have gone before, I should not imitate their example. However that may be, I am sure I should be none the less honest, for being encompassed by the provisions of the proposed amendment; and I am willing to believe the same of others. I do hope that the interests of the people may be consulted, and that this amendment may be made an unalterable part of the organic law of this State.

Mr. CORNELL—The principle of leaving the public printing to contract, single districts and biennial sessions, were well

understood in public conventions throughout the country.

Mr. ROBERTS—The gentleman from Monroe having spoken of public opinion, I will merely say that I was a member of the State Convention at Jackson, last year, and was then in favor of the contract system, and remained so until convinced of my error by the experience of Indiana, Kentucky, Ohio, New York and Congress. I understand also, that it is about to fail in Illinois.

Mr. McCLELLAND—It is interwoven with the constitution.

Mr. ROBERTS—I mean that the contractors throw up their contracts. There is as much propriety in this matter, as electing a Governor, Secretary of State or other State officer. Why not let by contract the office of Governor and other State offices, upon the contract system? But, when you fix the price and elect a State Printer, there is an end to all further trouble. Here are the editors of the public presses who have been heretofore in favor of the contract system, now in favor of this measure. We are not here to act upon a mad dog principle for Buncombe, but we are to look to the future. We must look twenty or fifty years ahead, and look to the best interests of the people. I will not occupy the time of the committee; I am not well, and if I were, I never talk for Buncombe.

I look upon the entire article now before the committee, as made up en masse of humbuggery and Buncombeism.

A division was called for, and the substitute was lost.

Mr. HASCALL—I now renew my amendment.

A division was again called for, and the amendment carried with the following addition:

"6. All accounts for public printing shall be certified by the contractor to be in accordance with the conditions of his contract, and the same shall be made under oath."

Section 26 was stricken out.

Mr. BRITAIN offered the following:

Add to section 27, as follows: "But the legislature shall provide by law for a simple and cheap method of selling, with the approbation of the judge of probate, the real estate of minors, and of married wo-

men whose husbands shall be incapable of selling the same."

Mr. LOVELL moved to amend the amendment by striking out the words, "with the approbation of the judge of probate."

Mr. BRITAIN said—Mr. President, I hope the amendment of the gentleman from Ionia will not be made. The legislature find it necessary to pass a large number of laws at each session, to enable such persons as are named in the amendment sent to the chair by me, to sell real estate; and such laws have always contained the express condition that the sale can only be made with the approbation of the judge of probate.

These applications were made to the legislature, because the method of accomplishing the sale by applying to a court as now provided, was too expensive. That small amounts of real estate would be entirely absorbed in the process of application to the courts under the provisions of existing laws; and the several legislatures of this State have therefore considered themselves justified for going into this kind of local legislation to relieve this portion of the people.

I wish to relieve the people from the expense of going to the courts for relief, and the State from the expense of this local legislation. This bill proposes to save the State from such expense by prohibiting the legislature from granting such relief; while nothing is proposed by it to be done for this numerous class of petitioners. I hope the Convention will attend to the interests and rights of this class of our citizens, as well as to those of the State.

I have said thus much of the merits of the amendment proposed by myself, in the hope that the Convention would not, without due consideration, render it worthless by the adoption of the amendment of the gentleman from Ionia, [Mr. LOVELL.] And now, Mr. President, I wish to say a few words in relation to the amendment proposed. The amendment proposes to strike out from my proposition the words, "with the approbation of the judge of probate." Why this gentleman offers this amendment I am at a loss to determine. Can it be with a view to the improvement of my proposition? It would be no compliment, to him to believe it; and yet I am hardly

willing to believe that he designs the destruction of the proposition by piece meal, and leave these meritorious applicants to the slow and expensive process of your courts. Is there any better person in the county than the judge of probate to superintend the sale of the real estate of minors? His whole time is devoted to the settlement of estates. Who can know more about the interests of minors than the judge of probate? But the gentleman does not propose to insert any other person as a guardian of the rights of the minor. Does he propose to have this sale take place without providing the guardianship of any one? And if any one, who would be as well qualified as the judge of probate? If you strike out as proposed by the gentleman, you leave the rights and interests of these applicants in jeopardy; and the proposition, if it ever became a law, would be with danger to those whom it is my design to aid. The amendment may not meet the views of the Convention, but I have offered it in good faith, and for the accomplishment of an important object, and I trust it will not be rejected without good cause can be shown for its rejection.

Mr. LOVELL—The Convention will do as they think proper, as I have no feeling on the subject. I believe, however, that it is improper to legislate here for private individuals, to enable them to sell real estate. I believe that there should be a law of the land to do away with the necessity, and then the individuals might make application to their own courts.

Many persons are in the habit of coming to the legislature for the purpose of avoiding expense. Great complaints are made of the time that the legislature sits from year to year, acting upon local subjects.

Our phraseology should be the assertion of general principles. I am not here as a legislator; and this conveys no fixed principle. So far from shedding light, it is a damage; for every surplus word introduced in this constitution needs some other word to explain it.

Mr. McCLELLAND—The object of the committee was to compel the legislature to pass general laws, giving authority to the judge of probate, or some other court. This does not deprive the legisla-

ture of the power of passing a law giving authority to the courts, for the object is to prevent the legislature from going into this kind of legislation. Your legislature have been much imposed upon. Your laws now are liberal with regard to this same subject. Your courts have now, I presume, all the power with regard to minors and in regard to married women, that most men suppose they should possess. But if they have not, let the legislature give them more power, by a general law.

But I am opposed to the amendment, as we do not know that we shall have a judge of probate at all. The legislature might see fit to give it to some other court. My opinion is, that it is best to leave the matter to the legislature. Deprive them of the power of passing any particular act, but not of the power of making a general law.

Mr. CROUSE—When interested persons can't get a judge of probate to sanction their wishes—to permit a sale—they come to the legislature and importune a committee until their ends are accomplished, to the great injury of heirs and minors. I am, therefore, opposed to the amendment of the gentleman from Berrien.

Mr. BRITAIN—Mr. President: I am not yet able to find any argument against the proposition, in all that has been said against it.

The courts have been open to the people. Why have not the people availed themselves of their benefits? Because the expense was too great, and the general complaint is, that it would take all the property that minors had.

We have the interests of these persons in our keeping, and we may be assured that the public will always regard these interests with care, and I think the interest safe under my proposition, for I have never known relief granted by the legislature, except under the supervision of the judge of probate; and it has, so far as I am informed, always worked well when approved by him.

But if the convention strike out "with the approbation of the judge of probate," where shall we go for safety? As I have already said, who is better qualified than he? His entire time is devoted to probate business; or at least it is expected to be, and he certainly should be more capable than any person who has only an oc-

casional case; and, Mr. President, he is the only proper person.

But the argument seems to run against the proposition itself. We are told that there is no necessity for my amendment, because the legislature will have the power to pass the general law without it; and the gentleman from Monroe, [Mr. McCLELLAND,] instead of pointing out a new remedy to the people, from whom he takes away an old, and the existing remedy, says not a word about it, but leaves them to obtain relief from courts, or to seek out the way in which they can induce the legislature to pass a general law. I do not wish to do so. If we take away from the people the safe, plain and simple method of obtaining relief, I wish to place before their eyes another way to obtain it, so that they may say to their representatives, "we expect you to pass this relief law before you return to your homes."

Mr. CROUSE—The gentleman says we take away the remedy. The people have the remedy, and the expense is only from five to eight dollars, while an act of the legislature costs \$260. We are not robbing the people—we are only referring them back to the remedy.

Mr. BRITAIN—Mr. President: I have never known a sale accomplished through the courts for any such price. A single case may have been so obtained, where the attorney charged nothing—where there were but few heirs, and where there was not much advertising. But the gentleman did not say that it was a common price. But, Mr. President, information I have obtained elsewhere, places these expenses frequently at \$25, and sometimes even above that price.

But the gentleman from Livingston annihilates us by the statement that an act of the legislature costs \$260. The last legislature passed 346 acts. Placing their expenses at \$50,000, each law would cost \$15.

Mr. LOVELL'S amendment was not agreed to.

On motion of Mr. HANSCOM,

The words "a simple and cheap" were stricken from the amendment.

The question then recurring upon Mr. BRITAIN'S amendment, as amended, the same was not adopted.

Mr. ROBERTSON moved that the com-

mittee rise, report progress and ask leave to sit again.

But the committee refused to rise.

On motion of Mr. KINGSLEY,

The words "or conveyance," was inserted in line one, after the word "sale."

Mr. RAYNALE moved to strike out the words "individual or individuals," and insert "person," in the second line.

On motion of Mr. McCLELLAND,

The amendment was amended by inserting "person or persons."

Mr. RAYNALE'S amendment was then adopted.

Mr. NEWBERRY offered the following as a substitute for section 28:

"The legislature shall have no power to appropriate money from the treasury to pay chaplains, or for any religious services performed in either house."

Mr. VAN VALKENBURGH—I trust, Mr. Chairman, the committee will indulge me a few moments while I briefly examine the reasons urged by the opponents of this measure to its adoption. With some, the appropriation of the public treasure for this purpose is considered unconstitutional, and hence they oppose the measure. We rejoice in their scrupulous regard for the constitution, and commend them for it. To such, permit me to say, as we are about to tear down the old fabric and rebuild, let us so construct it as to do away, forever, this objection. Let us place this matter upon a firm basis, beyond the reach of cavil, that the conscientious scruples of future legislatures may no longer deter them from doing what they would otherwise consider a privilege and a duty.

A few are so provident of the public treasure—so tender of their tax paying constituents, that they would by no means appropriate the money of the *dear people* for this purpose. They tell us the people are groaning under enormous taxes, and they are for reform. And can this measure be baptised with the name of reform? a measure which carries us back to the dark ages. Let me remind such gentlemen, "there is that withholdeth more than is meet, and it tendeth to poverty." The silver and the gold are His, and the cattle upon a thousand hills. He openeth His hand and we are filled. He giveth us all things richly to enjoy; and shall we refuse to acknowledge Him? Shall we

withhold the small pittance He demands at our hands?

Another class of objectors oppose us, as they say, from principle. They do not believe in audible prayer. They pray mentally—nay, they tell us they are good christians—quite devotional. But this praying right out, publicly acknowledging our dependence—unitedly seeking wisdom from above—this is too Pharisaical; they cannot—away with it. They forget the words of the Savior, “Whosoever therefore shall confess me before men, him will I confess also before my Father which is in Heaven; but whosoever denyeth me before men, him will I also deny before my Father which is in Heaven.”

But there is still another class of objectors, who urge with great pertinacity the abandonment of this practice. They say we compel them to listen to prayer in which they have no faith, and to which they are utterly opposed. Were the propositions assumed by these men true, did we compel them to listen to prayers which grate so harshly on their ears, I should sympathise with them, and enter the list in their favor; for upon this subject I am a latitudinarian; for giving the largest liberty to all for carrying out fully the provisions of the Constitution.

But how is this matter, sir? May not these men absent themselves from this hall until our devotional exercises are ended? Are they compelled to listen to our devotions? I think not. And how is it, sir, on the other hand? Have not the advocates of this measure just cause of complaint? Are not we cut off from a duty we consider desirable and obligatory upon us? Where, then, is the injustice, and who the injured party?

We believe in the divine revelation—we believe there is a God above and around us, who has spread out the heavens above us and garnished them; who governs in the armies above and among the children of men; who guides the destinies of states and of nations; who regards equally the prince and the peasant, the rich and the poor.

We believe we owe allegiance to Him; that He is entitled to the homage of our hearts and our lives; that we are bound to acknowledge Him in secret, in the social circle, and in the great congregation.

We believe He is the giver of all our mercies; the sovereign Disposer of all events, the great God, “who hath measured the waters in the hollow of His hand, and meted out the heavens with a span; who hath weighed the mountains in scales and the hills in a balance. Behold the nations are as a drop of the bucket, and are counted as the small dust of the balance; behold, He taketh up the isles as a very little thing, and hangs the earth upon nothing; He poureth contempt upon princes and weakeneth the strength of the mighty; He increaseth the nations and destroyeth them; He enlargeth the nations and straiteneth them again.”

We reverence His authority and would obey His command to pray alway, with all prayer; mentally and vocally, on all occasions—when we enter on our private avocations or on our public duties—alone and in our associated capacities—at home and abroad—by the domestic fireside, and in the legislative hall.

And what do the opponents of this measure propose to do, sir? They propose to remove old and long established landmarks, which have for all parties stood as beacon lights along our political pathway; they propose to drive from our legislative halls, a long cherished and time honored custom, which has thrown a sacred halo around their deliberations, and dignified their proceedings. They propose to launch upon the broad sea of infidelity, and by their conduct say, “no God.” They propose to have the representatives of this free and enlightened commonwealth throw off moral restraint, and enter upon their duties without acknowledging God. And are we prepared to do it—will the delegates of this fair peninsula, of this enlightened State, in remodeling the organic law, throw the reins upon the neck of unsanctified ambition, and minister to those elements which have proved the ruin of all former republics? Shall we not be warned, sir, by the history of the past? Shall not the ghost of departed days warn us? Will not the fate of infatuated, infidel, revolutionary France admonish us? Shall we escape the vengeance of Almighty God? May we not expect to see our free institutions prostrated—our republican form of government demolished, and our streets deluged with blood? Are we prepared to

retrograde in this age of progress and reform? Shall Michigan, which has proudly led in many of the reforms of the day, falter? Shall she hesitate? Shall she retrograde? No sir—no sir. As I look round upon this intelligent assembly, I read the ready response—No sir—No sir.

The progress of Michigan is onward and upward, destined to be among the first of the Confederacy; first in the beauty of her location; unequalled by any in the world; first in the richness of her soil and the verdure of her forests; first in mineral and intellectual wealth; holding a position in the councils of the nations second to no other State in the Union. No sir; Michigan is destined to progress; her course is onward. With LEWIS CASS for her polar star—with her moral, intellectual and physical prowess, she is destined to stand at the head of this Confederacy, and lead in those great moral reforms which are yet to redeem this world from the ruins of the fall, and reinvest it with all the beauty of Eden. And now, Mr. Chairman, how stands this matter, and who are the injured, the proscribed party, if this amendment prevails? Shall we, sir, have the broad seal of infidelity upon our organic law, and by our conduct say there is no God? Shall we not be in danger of advancing still another step—abrogate the Sabbath—pronounce death an eternal sleep, and the word of God a fable; and thus at one fell swoop destroy all that is fair and lovely, and of good report?

Take away moral restraint, sir—remove those safeguards which have been kindly thrown around society by the great law-giver, and the language of the poet is true—

“Man’s greatest enemy is man.”

Remove these kindly influences, and the hand of every man is against his brother, and this world becomes a scene of anarchy and of blood; an Acaldema; a field of blood, over which angels would weep, could tears be shed in heaven.

Let us remember, gentlemen of the committee, we act for posterity; let us so act as to secure their benedictions, and not their execrations. Let us ponder the warning of the immortal poet, uttered as he looked back upon the votaries of time, anxiously struggling for its airy phantoms:

“Day uttered speech to day, and night to night
Taught knowledge. Silence had a tongue; the
grave,

The darkness and the lonely night, had each
A tongue, that ever said—Man, think of God!
Think of thyself! Think of eternity!
Fear God! the thundersaid; fear God! the waves;
Fear God! the lightning of the storm replied;
Fear God! deep loudly answered back to deep.”

We are told in the word of inspiration, sir, “The fear of the Lord is the beginning of Wisdom.” Let us be wise; let us fear God; and, above all, let us fear to lay ruthless hands upon his institutions, trample upon his ordinances, and provoke his vengeance. I trust, sir, gentlemen will reflect before they cast their votes for this amendment, and that it will not prevail. The subject is one in which I, my constituents, and many members upon this floor, feel a deep interest; a subject in which the citizens of this State have a vital interest for all coming time; and I call upon gentlemen to reflect before they vote. I had hoped, sir, my colleague [Mr. NEWBERRY] would have accompanied his motion with some reasons for this innovation—this departure from a long cherished, a venerated custom. I hoped he would have told us why he considers it necessary to drive all devotional exercises from this hall. Why we should pour contempt upon this time honored custom.

The amendment of Mr. NEWBERRY was adopted.

On motion of Mr. McCLELLAND, all after ‘title,’ in the first line of section 29, was stricken out, and the following inserted:

“Only, but the act revised, and section or sections of the act amended, shall be published at length.”

On motion of Mr. J. D. PIERCE, the committee rose, reported progress, and asked leave to sit again.

Leave was granted.

Mr. BUTTERFIELD offered the following resolution:

Resolved That hereafter the afternoon sessions of this Convention shall commence at 2 o’clock, until otherwise ordered.

Mr. WHITE moved to strike out ‘two’ and insert ‘three’ in its stead.

Pending which, on motion of Mr. COOK, the resolution was laid upon the table.

Mr. CHURCH moved to reconsider the

resolution passed this morning, relative to the printing of debates, &c.; which motion, on motion of Mr. HANSCOM, was laid upon the table.

On motion of Mr. VAN VALKENBURGH, the Convention adjourned.

THURSDAY, (16th day,) June 20.

The Convention met pursuant to adjournment and was called to order by the PRESIDENT.

Prayer the Rev. Mr. SANFORD.

PETITIONS.

By Mr. MORRISON: of James Russell and 71 citizens of Calhoun county, praying that a clause be inserted in the Constitution prohibiting the legislature from enacting any law authorizing the sale of ardent spirits as a beverage. Also, of James Finch and 31 others, of the county of Calhoun for a like prohibition. Referred to the committee of the whole.

REPORTS.

Mr. COOK, from the committee on banking and other corporations, except municipal, reported back the following resolution, asking to be discharged from its further consideration, and recommending its reference to the committee on finance and taxation:

Resolved, That the committee on incorporations be instructed to inquire into the expediency of providing as follows:

1. That the credit of the State shall not be loaned to any person or persons, nor to any company or association, nor shall the state ever be liable for the stock of any corporation whatever.

The committee was discharged and the resolution so referred.

Mr. COOK, from the same committee, reported

Article —. Incorporations.

1. Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes. All laws passed pursuant to this section may be altered from time to time, or repealed.

2. No banking law or law for banking purposes shall have any force or effect until the same shall have been submitted to a vote of the electors of the State, at some general election, and been

approved by a majority of the votes cast on that subject at such election. When any such banking law shall have been passed and been submitted to a vote of the electors of the State, and shall have been rejected by them, then no further banking laws shall be passed for the next succeeding — years

3. The officers and stockholders of every corporation or association for banking purposes, issuing bank notes or any kind of paper credits to circulate as money, shall be individually liable, as co-partners, for all its debts of every kind.

4. The legislature shall provide by law for the registry of all bills or notes issued or put in circulation as money, and shall require ample security in State stocks on interest, or stocks of the United States, for the redemption of such bills or notes in specie.

5. In case of the insolvency of any bank or banking association, the bill-holders thereof shall be entitled to preference in payment, over all creditors, in such bank or association.

6. The legislature shall have no power to pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payments by any person, association or corporation issuing bank notes of any description.

7. The stockholders of all corporations and joint stock associations shall be individually responsible for all debts contracted for labor performed for such corporation or association.

8. The legislature shall pass no bill altering or amending any act of incorporation heretofore granted, unless with the assent of two-thirds of the members elect to each House; nor shall any act of incorporation heretofore granted be renewed or extended. The provisions of this section shall not apply to municipal corporations.

9. The State shall not become subscriber to the stock of any corporation or joint stock association.

10. The property of no individual shall be taken by any corporation, other than municipal, for its own use, without compensation being first made or secured, in such manner as may be prescribed by law.

11. From and after the year 1880, the legislature shall have the power to alter or

repeal the charters of all corporations whose charters shall not have expired previous to that time; and no corporation hereafter to be created shall ever endure for a longer time than thirty years, except those which are municipal.

Which was read a first and second time by its title, referred to the committee of the whole and ordered printed.

Sundry resolutions referred to the same committee, were reported back, from the consideration of which they were discharged.

Mr. CRARY, from the committee on the judicial department, reported the following article, which was read the first and second time:

Article — Judicial Department.

Sec. 1. The judicial power is vested in one supreme court, in circuit courts, in probate courts, and in justices of the peace. Inferior local courts of civil and criminal jurisdiction may be established by the legislature in cities.

Sec. 2. The supreme court shall consist of three judges, two of whom shall form a quorum, and the concurrence of two shall be necessary to every decision. A judge dissenting from a decision shall give the reasons for such dissent, in writing, under his own signature.

Sec. 3. The judges of the supreme court shall be elected by the qualified electors, and shall hold their offices until their successors are elected and qualified.

Sec. 4. Of the judges of the supreme court first elected, one shall hold his office for two years, one for four years, and one for six years, to be determined by lot at the first session of the court after their election. Thereafter the judge elected to fill the office shall hold the same for the term of six years. The judge having the shortest time to serve shall be Chief Justice.

Sec. 5. The supreme court shall have a general superintending control over all inferior courts, and shall have power to issue writs of error, habeas corpus, mandamus, injunction, quo warranto, certiorari, and other original and remedial writs, and to hear and determine the same. In all other cases it shall have appellate jurisdiction only.

Sec. 6. The supreme court shall hold terms annually in each judicial circuit, at

such time and place as may be designated by said court.

Sec. 7. The supreme court shall have power, by general rules, to establish, modify and amend the practice in said court and in the circuit courts.

Sec. 8. The State shall be divided into five judicial circuits; in each of which one circuit judge shall be elected by the qualified electors thereof, who shall hold his office for the term of six years, and until his successor is elected and qualified.

Sec. 9. The legislature may alter the limits of circuits or increase the number of the same; but no increase thereof shall be made except at the session of the legislature first held after the apportionment of senators and representatives provided for in this constitution. No alteration or increase shall have the effect to remove a judge from office. In every additional circuit established, the judge shall be elected, and his term of office shall continue as provided in this Constitution for judges of the circuit court.

Sec. 10. The circuit courts shall have original jurisdiction in all matters civil and criminal not excepted in this Constitution, and not prohibited by law, and appellate jurisdiction from all inferior courts and tribunals, and a supervisory control of the same. They shall also have power to issue writs of habeas corpus, mandamus, injunction, quo warranto, certiorari and other writs necessary to carry into effect their orders, judgments and decrees, and give them a general control over inferior courts and tribunals within their respective jurisdictions.

Sec. 11. Each of the judges of the supreme and circuit courts shall receive a salary, payable quarterly. They shall receive no fees or perquisites of office, or other compensation; and shall hold no other office of trust or profit during the term for which they are elected, and for one year thereafter. All votes for either of them for any office other than the one held by them, given either by the legislature or the people, shall be void.

Sec. 12. The judges of the supreme court may appoint a reporter of their decisions. The judges of the circuit courts within their respective jurisdiction, may fill vacancies in the office of county clerk and of prosecuting attorney. But no judge of

the supreme court or of a circuit court, shall exercise any other power of appointment to public office.

Sec. 13. A circuit court shall be held at least once in each year, in every county organized for judicial purposes. In counties having a population of ——— inhabitants, by the last preceding enumeration provided for in this constitution, there shall be held not less than three terms of such court in each year. Judges of the circuit court may hold courts for each other, and shall do so when required by law.

Sec. 14. The clerk of each county organized for judicial purposes, shall be the clerk of the circuit court of such county, and of the supreme court when held within the same.

Sec. 15. Appeals and writs of error may be taken from the circuit court of any county to the supreme court held in the circuit which includes such county, or with the consent of parties in the cause, to the supreme court held in any other circuit.

Sec. 16. In each of the counties organized for judicial purposes, there shall be a court of probate. The judge of such court shall be elected by the qualified electors of the county in which he resides, and shall hold his office for four years, and until his successor is elected and qualified. The jurisdiction, powers and duties of such court shall be prescribed by law.

Sec. 17. When a vacancy occurs in the office of judge of the supreme court, circuit court, or probate court, such vacancy shall be filled by appointment of the governor, which shall continue until a successor is elected and qualified; and when elected, such successor shall hold his office the residue of the unexpired term.

Sec. 18. The supreme court, the circuit and probate courts of each county, shall be courts of record, and shall each have a common seal.

Sec. 19. The legislature may provide by law for the election of one or more persons in each organized county, who may be vested with judicial powers, not exceeding those of a judge of the circuit court at chambers. In counties having a population of less than twenty thousand inhabitants, by the last preceding enumeration provided for in this constitution, these powers shall be devolved upon the judge of probate.

Sec. 20. The legislature shall provide for the speedy publication of all statute laws of a public nature, and of such judicial decisions as it may deem expedient. All laws and judicial decisions shall be free for publication by any person.

Sec. 21. There shall be four justices of the peace in each organized township. They shall be elected by the qualified electors of the township, and shall hold their offices for four years, and until their successors are elected and qualified. They shall have such criminal and civil jurisdiction, and perform such duties as may be prescribed by law. At their first election in any township, they shall be classified by law in such manner that one justice shall be elected annually in each township thereafter. The legislature may increase the number of justices in cities.

Sec. 22. Judges of the supreme court, circuit judges and justices of the peace, shall be conservators of the peace within their respective jurisdictions.

Sec. 23. The first election of judges of the supreme court, and judges of the circuit and probate court shall be held on the first Monday in April, 1851; and every two years thereafter an election shall be held for one judge of the supreme court, and every sixth year thereafter for judges of the circuit court, and every fourth year thereafter for judges of probate. Whenever an additional circuit is created, such provision may be made as to hold the subsequent election of such additional judge at the regular elections herein provided.

Sec. 24. The removal of a judge beyond the limits of the jurisdiction for which he was elected; or of a justice of the peace beyond the limits of the township in which he was elected, shall vacate his office.

Sec. 25. The style of all process shall be: "In the name of the people of the State of Michigan." All indictments shall conclude: "against the peace of the people of the State of Michigan."

Mr. CRARY offered the following resolution:

Resolved, That the article on the judicial department be recommitted to the judiciary committee with instructions that such committee so alter and modify their report as to provide that the judges of the

circuit courts shall be judges of the supreme court.

Mr. C. said there was much diversity of opinion in regard to the judicial system to be established under the Constitution. The article which he had been instructed by the committee to report, went to establish one system, favored, perhaps, by a majority of the Convention; but as it had not been tested, he offered the resolution for the purpose of testing the question. If the Convention ratify the principle reported, there will be nothing more to be done. If they should not ratify it, the committee will have to go into further arrangements to perfect some other system.

The report and resolution were ordered to be printed and made the special order for Tuesday next.

MOTIONS AND RESOLUTIONS.

Mr. McCLELLAND moved that the vote by which the resolution offered by Mr. ROBERTS, rescinding the resolution relative to newspapers, &c., be reconsidered, which prevailed, and the question being again on its adoption,

Mr. McC. would state that if this course had been adopted at the beginning of the session, he should have had no objection. He did not vote for the resolution, but to rescind it now would create some confusion.

He had understood the gentleman from Oakland to say, that the editors in Detroit offered to furnish the Convention with papers and look to the next legislature for being paid.

Mr. HANSCOM hoped the motion to reconsider would prevail. He had consulted with the editors of the Detroit papers, and they had made the proposition which the gentleman from Monroe had stated. That was all the agency he had had in the matter. No papers were ordered by the committee.

Mr. S. CLARK understood that but very few members had availed themselves of the resolution relative to newspapers. He had not himself directed any papers to be forwarded, yet members were receiving three Detroit papers daily. Somebody, he supposed, should pay for them. He would ask what arrangements had been made. He did not believe one-fifth of the members had ordered those papers.

Mr. McCLELLAND supposed the arrangement had been proposed by the editors of the papers. He had not ordered those sent to him, and he supposed the case was the same with other members. But (said Mr. McC.) if we receive them and say nothing to the Clerk, the presumption is that we have ordered them. If a paper comes to you through the mail, and you receive it, you are liable for the payment.

Mr. BRITAIN was opposed to the adoption of the first resolution authorizing papers to be ordered, because it was a practice which future Legislatures should not be countenanced in doing. The editors had been here and had made interest enough to get the resolution passed. He should not go for reconsideration, and did not expect to have any trouble with the publishers, as he should pay for the papers he received.

Mr. J. D. PIERCE—There is one thing in the resolution which ought to be amended. It imposes on the postmaster the duty of notifying the publishers, which the Convention had no right to do.

Mr. ROBERTSON—It is the same notice which an individual would make to the postmaster, and which postmasters are directed by the general office to give when required.

The motion to reconsider prevailed.

The question recurring on its adoption, Mr. ALVORD moved to lay the resolution on the table.

Lost.

Mr. J. CLARK moved to strike out "postmaster" and insert "Secretary."

Mr. HANSCOM moved the indefinite postponement of the matter.

On which Mr. BRITAIN demanded the ayes and noes, and the result was as follows:

YEAS—Messrs. W. Adams, Alvord, Arzeno, Anderson, H. Bartow, J. Bartow, Beardsley, Alvarado Brown, Burns, Bush, Butterfield, Carr, Chandler, Choate, Church, Conner, Crary, Crouse, Danforth, Desnoyers, Eastman, Gardiner, Green, Hanscom, Hart, Harvey, Kingsley, Kinne, Lovell, Marvin, McClelland, McLeod, Morrison, Mosher, O'Brien, J. D. Pierce, Raynale, E. S. Robinson, Rix Robinson, Soule, Storey, Sullivan, Sutherland, Webster, White, Whittemore—46.

NAYS—Messrs. Axford, Bagg, Barnard, Britain, Ammon Brown, Asahel Brown, Chapel, J. Clark, S. Clark, Comstock, Cook, Cornell, Daniels, Dimond, Eaton, Edmunds, Fralick, Gibson, Graham, Hasscall, Hathaway, Hixon, Leach, Lee, Moore, Mowry, Newberry, Orr, N. Pierce, Redfield, Roberts, Robertson, Skinner, Sturgis, Town, Van Valkenburg, Wait, Walker, Warden, Wells, Williams, Willard, Woodman, President—44.

Mr. BUTTERFIELD moved to take from the table the motion of Mr. Church, offered yesterday, to reconsider the resolution relative to printing the debates.

Which prevailed.

The question again recurring on its adoption,

Mr. BUTTERFIELD said the motion of his friend [Mr. CHURCH] was made for the purpose of giving an opportunity for members of the Convention to express their views on the resolution offered by Mr. ROBERTS, and supported by the chairman of the committee on printing, [Mr. GARDINER.] He understood that resolution had been adopted without consideration, and that it contemplated different action by the committee in relation to the printing and binding the debates from that which had previously been determined upon by the Convention.

The State Printer had proceeded under the direction of the Convention so far as to set up four forms, thirty-two pages; two of those forms had been printed and delivered, and one of those forms had been printed for binding. If he [Mr. B.] rightly understood the statement of the chairman of the committee on printing, it was this: that it was necessary that this resolution should be adopted, that the debates might be printed in smaller type; that with the type used at present, the debates would make an unwieldy volume, and perhaps two of them. If he had understood him correctly, there was no type here that would be proper, as proposed or indicated by the chairman of the committee on printing, and he [Mr. B.] understood there was no such type in the State. He also understood that there was a contract to print in the usual form. If this be the case (said Mr. B.) it will be seen at once that if the committee should take the course indicated by the chairman, it will

be equal to printing this book, the entire matter, in a new form, and not under the contract with the State Printer. The State Printer could not bring here type of that kind without additional expense, and consequently would expect further remuneration.

With reference to the unwieldy volume, it is sufficient to say, in the present form used by the State Printer, the debates will not make a volume, in all probability, as large as the volume of debates of the Convention of the State of New York. We have not in our debates occupied more than six pages daily; but say our deliberations shall cover eight pages, it will require 105 days to make a volume as large as that of New York; and no gentleman supposes we shall continue in Convention that time. The chairman of the committee must have been mistaken as to the fact. The volume would not be so unwieldy in its present type as that gentleman had represented.

One form is struck off and must be paid for; all we shall gain will be a little finer print, and perhaps some improvement in the general execution of the volume. This would not be a sufficient offset against the additional expense. He hoped the resolution of yesterday would be rescinded, and the State Printer be allowed to go on with the work.

Mr. CRARY said he found, by reference to a resolution of the fifth of June, that the Convention adopted and the committee reported that this book should be printed in octavo form, with burgeois type and a certain kind of paper. He believed this was called the medium sheet. There were also, he understood, the royal octavo and the imperial octavo. It appears this is the medium sheet, a little shorter; it will make a book as wide but not as long as the full or regular sized medium sheet. He wished for more information on the subject.

Mr. STORY—It appears this is a short medium sheet; if printed on a sheet a little longer, it would be what the Convention want, the size of our public documents. It would make a good appearance, and be fit to put in our libraries. The paper for the book will be longer, the type the same.

Mr. CRARY—If what has been stated

by the gentleman from Jackson is true, and we shall have a longer book, I shall go for continuing the printing under the present arrangement. I would inquire if this is printed with bourgeois type.

Mr. STOREY—It is one size larger.

Mr. CRARY—It may be the long primer which is used; he thought it could not be the bourgeois; but not being a printer he made the inquiry. Then (said Mr. C.) we are not having the book we ordered. He would further inquire why the long primer was used when the bourgeois type was ordered. He would wait for an answer, as the Convention was under a system of reform.

Mr. GARDINER—for the same reason that it was not printed in brevier—because there was none here.

Mr. CRARY—That is a satisfactory reason. Taking this as it is, I shall go for reconsideration, believing we shall save several hundred dollars to the State. As a spirit of economy had come over the Convention yesterday, it would be as well to keep it up to-day.

The motion to reconsider was carried.

Mr. ROBERTS offered as a substitute:

Resolved, That the printing of the debates of this Convention be dispensed with, and the reporters relieved from further attendance.

Which was negatived.

The question recurring on the adoption of the original resolution,

Mr. STOREY hoped the resolution would not be adopted. The debates would make a very respectable volume of some 800 or 900 pages. He saw no reason for altering the arrangement which had been made for printing.

Mr. GARDINER said he had spoken in favor of the adoption of the resolution yesterday, in accordance with the views of a large number of the members of the Convention who had expressed their dissatisfaction with the type and printing. He had supported it because he thought it was the wish of the Convention, and had made a fair statement of what the difference of expense would be; he had no objection to rescind the resolution and return to the old form of printing. He thought his friend from Jackson [Mr. STOREY] mistaken in his statement that the debates will not exceed some 800 pages. One of the

reports had been shown to him, of over forty pages of closely written manuscript. It was desirable that the Convention should soon decide, as the printing was suspended. With regard to the printing, there was no bourgeois type here; the type used is that in which the State printing is done. There was no blame attached to the State printer. He was not aware that any other kind of printing would be required, or he would have provided for it, even at a sacrifice; and he [Mr. G.] believed it would be a sacrifice before the printer got through. It was very lean work in this type. Had arrangements been previously made, or could it be effected without much inconvenience, he should have preferred to have it done on brevier type; as it had been decided to send a copy into every State in the Union, and to the several departments of the United States government, he should have liked the work so gotten up for the credit of the State of Michigan and the craft.

The gentleman from Kent, [Mr. CHURCH,] had suggested the propriety of inserting the old constitution, the new constitution, the names of members, &c. The expense would be very little; but the committee had not been so instructed by the original resolution. The volume would be worth twice as much with that information. Without it the volume would be almost blank paper. Our debates here, are not much better.

Mr. HASCALL believed there were considerations that ought to induce the Convention to adopt the resolution. If order and economy were the order of the day, he had no doubt it would be an advantage to have the work done on brevier type. He believed if done in the present type, it could not be done in less than two volumes. It would require double the amount of paper and press work, and double the amount of binding. If the brevier type is obtained, it might be got up in a small, respectable sized volume. The paper which is now used is very expensive. There is something to be taken into account before the brevier type is ordered. The printer is not bound to print in brevier type, only in that heretofore used; that had better be settled upon consultation. In setting up again, the first form would be a

small loss compared with the gain in the end. He hoped it would be adopted.

Mr. STOREY did not concur in the views of the gentleman from Kalamazoo, [Mr. HASCALL.] The Convention of New York sat four months and eight days. Their debates are generally printed in brevier type, with the old constitution and the new, and an ample index. It makes a volume of 900 pages. On the best calculation he could make, the debates printed in the present type, will make a respectably shaped volume of 800 pages.

Mr. CHURCH believed the type and the size of the book would correspond with the matter. He hoped no change would be made.

Mr. GARDINER had no feeling on the subject. The argument that the printing hereafter done will be at an increased expense, is wrong. The resolution is, that the State printer shall do the printing in such manner as we direct. They could have it done in nonpareil or any other type.

Mr. CRARY—Does the gentleman say the printer must do it?

Mr. GARDINER—If the State printer shall refuse or neglect to do the printing, the committee may get it done elsewhere at the same expense. It does away with the expense, except as to the first form. If this resolution is carried, they will not go on with the printing. In the brevier type it would save one-third of the paper and press work. If two volumes are to be bound instead of one, the expense will be increased. If the Convention sits sixty days, two volumes may be required.

Mr. McLEOD said he was utterly ignorant of the matter, utterly ignorant of the phraseology; but he thought he would add his mite to the obscurity, that the darkness might be felt. To postpone, he supposed, would leave the matter open for discussion to-morrow. To that he was opposed. It has been up from day to day, and has clung to the Convention like the old man on the back of Sinbad the sailor. He wished it were cast into the depths of the sea.

The gentleman says the printers are at a stand. The Convention is at a stand;—and we are all at a stand. That, [said Mr. McL.,] is the only fixed fact I have gathered, except the revelations of the gentle-

men of the types, who tell us that we can do nothing to guard against the iniquities of the press.

Mr. CRARY said he believed if it was indefinitely postponed, it would leave the matter as before; and it could not be introduced again this session.

Mr. GARDINER—The effect will be, if it is postponed, to let the printers go on as before.

The question was taken on postponement, and carried.

Mr. CHURCH offered the following:

Resolved, That the committee on printing be instructed to cause the following items to be inserted in the volume of printed debates, in their appropriate place and order:

1. The law providing for this Convention;
2. The present constitution and the new one to be presented to the people;
3. That part of the manual comprising the list of members, the rules and standing committees of the Convention.
4. The articles reported by the several committees;
5. The debates and an index of subjects.

Mr. ALVORD moved to amend by adding "but no speeches evidently made for Buncombe, shall be printed in the debates." Which was lost.

On motion of Mr. BRITAIN, the resolution was amended by adding the following: "and that said committee be relieved from procuring the printing said reports in bourgeois type."

The resolution as amended was then adopted.

Mr. SUTHERLAND offered the following, which was lost:

Resolved, That on and after this day the Convention will hold but one session a day—that it will commence at 8 o'clock A. M.

On motion of Mr. S. CLARK, the special order of the day was postponed until to-morrow.

On motion of Mr. McCLELLAND, the Convention then resolved itself into committee of the whole, and resumed the consideration of Article —, "Legislative Department," Mr. WELLS in the chair.

Mr. HANSCOM moved to strike out section 32, which provides that in case of contested elections, the person only shall

receive per diem compensation or mileage who is declared by the house in which the contest takes place, to be entitled to a seat.

Mr. H said this appeared to be a harsh rule. It may be that a legislature may have paid persons who had no meritorious claim to a seat; but there may be cases of great doubt as to which of the claimants ought to receive his seat. A person may receive the official certificate of his election; another party may assume that the certifying officer has violated the law. Would it not be unjust to deprive the individual contesting, having a certificate, and compelled by every consideration of duty to his constituents to claim his seat, and refuse to pay him when acting in obedience to the injunction of law? This is a harsh rule. He would leave it to the legislature to act on the merits of each case. He did not believe the people would send members to the legislature so totally incompetent as to be unable to decide. They are not duties of the individual, but the people. It is their behests that may bring a contestant here.

Mr. BARTOW, of Genesee, said the true rule would be, to allow the successful contestant his pay, and the person having a certificate, his per diem, at any rate.

Mr. HANSCOM had no objection to see it stand in that form.

Mr. McCLELLAND thought some notice to the holder of a certificate should be required to be given, that his seat would be contested. If the certified person then comes on, and fails, he should not receive his pay. Cases have occurred where a person received his certificate by the fraud or error of the returning officer. Under such circumstances he comes here to get his per diem allowance and mileage. If notice were given, and no per diem or mileage allowed to the failing contestant, very few cases of the kind would be brought before the legislature for decision.

Mr. S. CLARK was of opinion that most of the cases of contested elections would be settled at home if it were not for the expectation, the certainty, in fact, that the failing contestant would receive his pay and mileage. The Convention had an example, a case of its own, that should settle the question. The member from Chippewa was here as a delegate without a certificate; his claim to the seat was so

manifestly just that the certified person did not venture to come here. Could he have been assured of his mileage for coming here, it might have been an inducement so to do.

Mr. J. BARTOW thought the argument of the gentleman from Monroe [MR. McCLELLAND] was based on wrong principles. He says there may be fraud or error on the part of the returning officers, and therefore the person holding the certificate should not be allowed to come on and be compensated for his loss of time. Fraud or error may be committed without the holder of the certificate being concerned; and having the certificate it is his duty to come here under the order of his constituents; and any constitutional provision that shall deprive him from being paid for doing what he is required to by the law, would be wrong. The person who comes here and contests a seat without a certificate, and fails, should be cut off.

Mr. WALKER believed that in most cases of contested elections, the right would be found with those not holding the certificate. He had known cases where persons holding certificates admitted that they were not entitled to seats, yet those cases occupied considerable time in investigation in the House of Representatives, and before the committee on elections; and the parties received their *per diem* and mileage. A person not having a certificate will not be likely to come before a legislative body and claim a seat unless he believes he is entitled to it. On the other hand, a person having obtained a certificate comes in expectation of receiving his mileage and *per diem* until it is decided.

Mr. HANSCOM contended that the section ought to be struck out. The argument of the gentleman from Genesee [Mr. BARTOW] was the most correct. Gentlemen on the other side argued from isolated cases, which was not a correct course of reasoning. He, too, could state an isolated case which occurred last winter in the House of Representatives; the committee were divided in opinion, and a majority and a minority report were made. Mr. Ashman held the certificate; though losing his seat, he was sustained by nearly one-half the members of the House. Would it not have been hard, under such circumstances, to have allowed Mr. Ashman to

go home without being paid? It would have been an act of injustice which the people will not allow. It is the people's right that is contested; they have an interest in it; the individual contests their rights. The gentleman from Monroe seems to think that every man contesting a seat consults only dollars and cents; that there is no patriotism beyond the *per diem* and ten cents a mile. Is it to be supposed that the Legislature in future times cannot decide rightly in cases of just claims and baseless claims? They have distinguished, and will distinguish such.

He [Mr. H.] did not believe there was in the constitution of any State a clause like this. He regarded it as an absolute, a downright absurdity.

We leave the Legislature to decide in all cases of contested elections. But there may be legal claims. In the case of a contested seat for the county of Saginaw, it was argued that the Legislature could not attach other counties to it for legislative purposes; questions of law were involved requiring the adjudication of our courts, on which the judges differed. In that case one of the contestants was sustained; as to the other, it would have been an act of great injustice to have turned him from our halls without being paid, when he came in good faith, sustained by his constituents, when they believed the law to be in his favor.

The argument of the gentleman from Macomb [Mr. WALKER] is based upon the assumption that contestants are governed by mean and unworthy motives. He tells us that a man came to claim a seat without right, and that he so informed the committee on elections, and that there is apprehension of such fraud being again committed, and the Legislature endorsing such rascality. I (said Mr. H.) cannot go the length of that supposition. The gentleman from Macomb has been a member of the House and Senate so long that he may be supposed to speak of it from practice, but I disclaim it.

It would be manifestly unjust to allow a person to come here having the official signature of those who are by law authorized to judge, and when a majority may have great doubts respecting the claim, to send him home without being paid; the people having sent him here to claim his seat, to

spend his time, and go to all necessary expense to sustain their interests.

Mr. CHAPEL hoped it would not be struck out, but amended so that justice may be done. But heretofore he knew the members from the upper peninsula have made it a regular business to contest their seats. He did not know that the distinguished member from Mackinaw had, but Mr. Ashman had been here year after year to contest the seat. The mileage is large, and the *per diem* allowance he obtains enables him to flourish as a very distinguished personage. It is wrong, and the inducements to such practices ought to be cut off. A certificate is given at the Sault before the returns come in from the other counties; he puts off with it; the other man waits till the returns come in, and puts off too; he of course gets his seat, as having had the greatest number of votes cast in the district. Ashman gets his mileage, some \$250, and perhaps \$100 for attendance. This amount he is able to put in his pocket under our constitution and the practice of the Legislature. He [Mr. C.] was of opinion that there was sufficient ability in the Convention to correct such abuse.

Mr. McCLELLAND would ask the gentleman from Oakland, who had represented the proposition as absurd, if the Legislature did not apportion the members amongst the counties of the State, and that the members shall receive a certain amount of pay and mileage; if you pay the contestant and the person having the certificate, does not the county obtain a double compensation at the expense of the other counties?

If the parties contest, he should have no objection to the insertion of a clause that the counties shall pay the expense. He believed the people of the State were in favor of each county being represented; but he thought it a hardship for those counties where there are no contests, to pay those counties where the contestants come from. You have no right to tax the counties of Wayne or Washtenaw, to pay double compensation to counties sending a double set of members. They come at the beginning of the session. The contest may not be concluded till the session is nearly over. Thus the county will have a member in pay in the House, and also a lobby member paid by the State, out of the

House. Where a seat is contested, let the member who receives his seat be paid, and none other.

Mr. McLEOD said it seemed to him that the inferences which gentlemen were disposed to draw, were not deducible from the facts. If we strike out this section, we do not declare that the legislature shall pay the contestant. We only allow them to do so if it is compatible with the interests brought there by representation. The arguments of the gentleman from Monroe [Mr. McCLELLAND] would have been more appropriate when a member of the legislature, than in this place. Those who come from the people, representing the interests of the people, and acting under the solemnity of an oath, ought not to be deprived of the power to pay a contestant, if they think it proper and compatible with the interests of those they represent.

Mr. WALKER moved to amend by adding at the end of the section, "except in cases in which there shall be reasonable grounds to doubt as to the respective rights of the contestants."

Mr. W.—It might be said that the legislature have the right already; but we know that the precedents are all the other way. If it appears to the whole house that there is no just claim, and that the contestants ought not to be paid, precedents are immediately referred to, and the claim urged on that ground; especially when a man has a certificate. This would give notice to the parties that unless they had a reasonable claim, they would go without the expectation of any compensation.

Mr. GOODWIN said it appeared to him that the tendency of the whole debate was to show the propriety of leaving the whole matter to the legislature, to judge of the individual cases they may have before them. He [Mr. G.] would prefer leaving it to the legislature.

Mr. MOORE believed these things should be settled in the counties or districts where they arise. As it seemed to be the policy to correct every thing that was extravagant, he could not see the propriety of allowing persons to come here to contest seats. It should be competent for the people to say whom they wish to represent them. The legislature should provide that the will of the people of the

county or district should be recognized, to cut off all those difficulties that have occurred in every legislature. Mr. M. said there was no impropriety in settling the question in counties.

Mr. FRALICK—The principal business of the Convention is to control expense.

This has been one of the grievances complained of—contestants coming without any reasonable expectation of getting their seats. Adopt this section, and there will not be so many claims for seats. Unless they have good reason they will not come. If the counties feel so much interest for the honors concerned, let them pay the defeated contestant. This crying evil has very much increased the indebtedness of the State, and it ought to be remedied. Place this section in the article, and it will close the door. It not only will have the effect of saving the mileage and per diem of claimants, but the time of the legislature, which has been often spent in investigating and deciding those questions. If a person has not a good claim, he will not come here at his own expense.

Mr. BUSH thought the section should remain. He would ask, if this is struck out and a blank left, how the legislature would be placed by the Convention? They would see by the reports that such a provision was introduced, and that after full discussion, it was struck out. So that they will pay contestants as before. Mr. B. referred to the case of Mr. Crane, of Eaton, in support of his views.

Mr. DANFORTH thought the amendment would be proper. He would not allow pay unless in those cases where there would be great and reasonable doubts in the minds of the contestants and the body who had to decide the question. Mr. D. referred to his own case, when his seat in the Senate was contested, and contended that in some cases it would be a mere act of justice to give compensation to the defeated contestant. He hoped the amendment would be adopted. If it were not, he should go for striking out the section.

Mr. ROBERTSON was in favor of retaining the provision. This had been a great evil, and ought to be provided against; not so much on account of the money paid to the contestant, as the time expended on those questions in the legislature.

Mr. SULLIVAN said—It appears to me that no power should be given to the legislature to allow compensation to unsuccessful applicants for seats in the legislature. There were undoubtedly cases in which the unsuccessful contestant had good reason to believe that he was entitled to his seat, and in which it would be a case of extreme hardship to refuse him compensation. The legislature, however, can provide for a decision of all such cases, by local tribunals. It is with such tribunals that the power can be most safely deposited. Entrusted to such hands, there is no danger that allowance will be made on the one hand to those whose claims are entirely unfounded, or on the other, that a just and liberal compensation will be refused to those who have expended time and money in vindication of claims believed by them to be just.

Mr. MORRISON had no objection to the original section, but he wished an amendment would be made to meet the case mentioned by the gentleman from Oakland.

The question was taken on Mr. WALKER's amendment, and lost.

Mr. McCLELLAND moved to amend by inserting "from the State," after the word "receive," which prevailed.

Mr. HANSCOM'S motion to strike out was negatived.

The committee rose and reported progress.

On motion, the Convention adjourned.

Afternoon Session.

The Convention was called to order by the PRESIDENT.

The Convention resolved itself into committee of the whole on "Article —, Legislative Department," Mr. WELLS in the chair.

On motion of Mr. McCLELLAND, all after the word "account," in section 34, was stricken out.

Sec. 36. The legislature shall meet on the first Monday in January next, and every two years thereafter, and at no other period, unless as provided by the constitution.

Mr. McCLELLAND moved to strike out the word "January," and insert "February."

Mr. McC. said the first session was limited to sixty days. They would have to apportion the districts under the census of the United States. In case the Congress bill should not pass till near the close of the session, they may have to adjourn under the provisions of the constitution, and be called together again by the Governor. To avoid that inconvenience, he proposed the amendment.

Mr. WITHERELL moved to insert "the first Monday in June." It could not but be genial to meet at that time.

Which motion was lost.

Mr. RAYNALE moved to strike out the word "Monday," and insert "Wednesday."

Mr. CRARY did not see any necessity for altering the time of the meeting of the legislature on account of the action of Congress. The census would be returned before that time. The law is fixed and the apportionment may be made as soon as they see the census.

Mr. McCLELLAND was aware of the law. The great difficulty is this: it is an act of Congress that may be repealed or modified as they see fit. Again: suppose there is a large fraction in the State; they may give a member for that fraction, or they may not. He [Mr. McC.] thought there was reason for the amendment.

The question being on Mr. RAYNALE'S amendment,

Mr. RAYNALE said he believed there was an obvious reason for the amendment he proposed. Some members have objections to traveling on the Sabbath. If Wednesday be fixed for the commencement of the session, most of the members in the lower peninsula can arrive here in two days. Another reason:—It is sometimes necessary to go into caucus for the nomination of officers; they will have more time for that purpose.

The amendment was adopted.

The motion to insert "February," was carried.

Mr. McCLELLAND moved to insert "the first Wednesday in January, 1853, and every two years thereafter."

Mr. BRITAIN was of opinion that February would be better inserted as the regular time of meeting, instead of January. There was one reason in its favor: they might avoid much local legislation hereafter.

ter. Those applications for relief, and extension of time for the collection of taxes, would be got rid of. Members could arrange their winter business before they came, and they would have more of the legislation of Congress before them. As the sessions would be limited, they could get home in time to attend to their spring business.

Mr. REDFIELD would suggest another reason: At that time the treasury is replenished. In February and March the treasury is in better condition to meet the expense of legislation. January is always considered the worst month to meet calls of that kind.

Mr. J. CLARK hoped that it would be adopted. It would give the farming community time to dispose of their produce. It would be a better time for the legislature to meet. He moved to insert February instead of January.

The amendment of Mr. McCLELLAND, so amended, was adopted.

Sec. 37. The election of Senators and Representatives, pursuant to the provisions of this constitution, shall be held on the Tuesday succeeding the first Monday of November, in the year 1851, and every two years thereafter.

Mr. McCLELLAND said the old provision was the first Monday in November. The alteration was proposed to meet the act of Congress; so that when the Presidential election comes round, there will be no necessity for a special election for President of the United States.

Mr. STOREY offered the following, to stand as section 38:

"All general laws shall be published in one newspaper in every county where there is a paper printed, which paper shall be designated by the Secretary of State; and the publisher of every such paper shall receive six cents per folio for such publication."

Mr. STOREY said—It has been complained of that the laws go into operation before being published. This would remedy it. The expense would be trivial compared with the advantage.

Mr. MORRISON—The difficulty will be obviated by the provision in the constitution, that no law shall go into operation for ninety days after its passage.

Mr. STOREY—This publication of the

general laws would make the people better acquainted with them.

Mr. FRALICK—This is a measure that more properly belongs to the legislature. If the people want it, they will call for it.

Mr. HANSCOM said—The gentleman from Wayne, and others, had doubted the propriety of leaving any thing to the legislature. There appeared as much propriety in this, as in some of the proposed limitations. This applies to the people of the whole State, and is for their benefit. The paltry sum ought not to be considered in comparison with the advantages to the people of becoming acquainted with the laws. There is a necessity for the object being carried out; the very exigencies of the case require it. Unless there is a general publication of the laws, notaries public and justices will take acknowledgments of deeds in a wrong way, as they have heretofore done. It is time this evil under which the people have been laboring was removed, and a plan established for a more general publication of the laws as soon as passed by the legislature.

Mr. STOREY—This would merely cover the cost of composition. It would not pay the cost of printing; but they have an interest in publishing the laws.

Mr. HASCALL—The laws are published in the State paper, and circulated in every township of this State.

Mr. BAGG moved to strike out the words "six cents a folio." He should be sorry to see "six cents" in the constitution.

Mr. WITHERELL—Conveyances of deeds have failed for the want of knowing the change in the mode of acknowledging the deed. If the mode of acknowledging by a married woman is not in form of law, nothing is conveyed. The notaries public and justices of the peace do not take the State paper. When the change was made in the mode of acknowledging deeds, they did not, and could not know until it was too late.

Mr. W. did not hold the expense a matter of very great consequence, if the publication in this manner was necessary to enable the people to know what the laws are. If the laws were published in the papers in the several counties of this State, the people might be informed what the laws are, and not have to wait six months or a year, till the bound volume is publish-

ed. He would ask what would be the probable cost of publication of the ordinary session laws of 200 pages?

Mr. STOREY—As near as I can estimate it would be about twenty-five cents for a statute page. The general laws would be but a small part.

Mr. LEACH—According to the statement made by the gentleman from Jackson, it would cost seventy-five or one hundred dollars for publication in each paper; an item worthy of some consideration. Whatever the opinions of the gentleman from Oakland [Mr. HANSCOM] may be, I think it proper to look at the public treasury, and it might with great propriety be looked at by this Convention. If there were any necessity for this publication, I would be the last to oppose it; but I see no necessity for it. Ninety days are required after a law is passed before it goes into operation. This is enough—this is done now. The session laws of the last Legislature are ready for distribution. Besides, all those of a local nature, in which the people are interested, are published in the local papers. If there is anything in which the people of Jackson are interested, it is published in their paper—so in Genesee; besides this, there are laws which need not be published. Believing the publication of the laws as proposed by the gentleman from Jackson would be attended with much expense and very little benefit to the people, I am opposed to the adoption of the resolution.

Mr. GARDINER—The gentleman from Genesee is mistaken as to the expense; he also keeps out of sight the present expense of publishing the laws by the State. They are published by the State paper and sent to every township clerk in the State, and the State pays for it. Some eleven hundred dollars are paid to the State paper now for such publication. The publication of the general laws, as proposed by the resolution, will not cost so much as under the present arrangement. The idea that it is to be a great expense to the State is a mere bug-bear. The State is now paying more for the same thing and not getting it so well done either.

Mr. LEACH—I hope under the new constitution this expense will be saved.

Mr. J. D. PIERCE thought the laws passed the first week of the session would

come into operation before they could be published, unless they were published in the papers.

Mr. WALKER had listened to a great many remarks from printers on the iniquity of the craft, and he began to feel a little suspicious. We are having our laws published in a newspaper, and they will not be finished before the session laws are published. It would be better to extend the time for the acts taking effect, and stop this newspaper publication. He hoped a clause prohibitory of such publication in the newspapers, would be inserted in the constitution, as Legislatures might not have such an exposition of the tricks of the trade as the Convention had had that morning.

Mr. BUTTERFIELD—One word in defence of the press. My friend, Mr. STOREY, has not a cent's worth of property in any press in the State. As to publishing in the paper, it was supposed that by extending the time for the laws taking effect to ninety days, the laws might be got out in book form by that time; but such would not be the case. We do not live very remote from the capitol, and yet the laws do not reach us till November. They would take five months beyond the ordinary adjournment of the Legislature. The laws at present are published in the State paper, but they are not completed and furnished to the township clerks till late in the year. The publication of the laws at a small expense in the papers, would be a saving to the State and an advantage to the people.

Mr. WILLIAMS was opposed to this proposition. A few days ago we heard a great deal about expense. Grand juries were to be abolished because of the expense. And now, although the publication and dissemination of the laws are provided for, and although besides the annual statutes, the State paper is sent to the town clerks of each of seven or eight hundred towns, and an expense of \$1600 perhaps incurred, yet it is now proposed to adopt another method of disseminating the general laws through the public press. And what will be the expense? Say there will be soon fifty counties and that it will cost \$50 dollars each—the expense will be \$2,500. But the worst feature of the proposition is that it is a bounty given by the

Secretary of State to those presses in the interest of the majority. It must prove an encouragement merely to the party press of the party in the ascendancy. The minority are amenable to the laws, and to them a knowledge of the laws is as necessary as to the majority. He was unfortunately in the minority here, and in a small minority; but he conceived he was still entitled to an equal participation in the benefits of government. He regarded the plan, if carried out, as partial, radically wrong and unjust.

He thought the \$2,500 could be expended where it would do the people more good. Yesterday we had an earnest debate on the pay of members of the Legislature. The whole difference between three dollars and two dollars per day would not vary much from \$4,000. We had much better pay this \$2,500 to the law makers. We had much better pay it to the judiciary, and thereby secure better judges. A good administration of justice is cheap at any price; a poor administration of justice is dear at any price. No, if we have any more bounties to grant, let us give them to those on whose decisions hang our lives and property. Let us pay this sum to either the makers or to the expounders of the laws, and not for so imperfect and partial publication of them.

Again, after hearing the exposition of the gentlemen from Kalamazoo and Washenaw, [Messrs. HASCALL and GARDINER,] he was afraid to have anything to do with printers. He was afraid to put his hand in the lion's jaw. For himself, as one citizen of the State, he heartily thanked those gentlemen for the fearless exposition they had made. It will save the State a hundred thousand dollars. If such an exposition had been made a dozen years ago, it would have saved the State a larger sum. These gentlemen, both practical printers, warn us that printers will cheat the State if the State has anything to do with them; and the gentleman from Wayne [Mr. BAGG] being the brother of a printer, proposes to open the way by striking out the price fixed in the proposition.

Mr. CRARY—It was in old times the custom to hang the laws up so high the people could not read them. It was the case in this State. It was to make the publication of the laws in one paper the

authority, and every person who did not take that paper did not know what the laws were. For the last fifteen years the people have been virtually placed in that situation. The laws have been hung up so high they could not read them. We have been at great expense to provide men with the statute laws who ought to buy them. What is the course now? It is to send to the township clerk's office a State paper, and there the people must go to get a knowledge of the laws. I would go further; I would compel the Secretary of State to publish them in every paper of the State, not at the rates they have paid, but at what the printers will publish them for. The people may truly complain that they do not understand the laws—how can they when they cannot get at them. We have provided for publishing the laws, but not in a way to give light to the people. I care not about sending up a volume to the Governor's room; he can buy one; but thousands require information which can only be circulated through the papers in their locality. Give the people light; they complain that they have no light, that we have changed our laws so rapidly that they could never get at them.

Mr. WILLIAMS—Then amend the resolution by authorizing the publication in all the papers of the State.

Mr. CRARY—I am willing to do so, certainly.

Mr. BAGG was opposed to the proposition of the gentleman from Jackson. Those constitutional enactments should be simple propositions, and should not go into detail. He should be sorry to see *six cents* put in the constitution. Sir, (said Mr. B.) I came here to frame the warp; I did not come to put in the filling, red rags and everything, in the constitution.

Mr. GALE, from his experience as a township clerk, could say that the people never came to look at the State paper. Any person taking a good paper in the State would get all the laws that were necessary. The gentleman from Marshall complains that the people have not the information; but, sir, you may throw your session laws before justices of the peace, and they never look at them. The people will never look at the bearing of them. They will not take the trouble to see what the Legislature has done. The documents

you throw amongst the people are scarcely ever taken out of the wrappers.

This was not a proposition to publish in all the papers; it would only go to the papers of the party, and would be a small gratuity to the party press. It was contrary to the restrictions proposed in the article on the Legislature relative to the legislative printing, which seemed to have been got up in a business like manner. It was going back again in reform, and he hoped it would not be sustained by the committee.

Mr. MORRISON—The argument in favor of this proposition is that the laws cannot be obtained by the people. If it be of so much importance to the community as represented, it appears to me that the resolution does not go far enough. If it is the duty of the State to pay for the circulation of the laws, let them pay for the whole community. The gentleman says they do not all of them take the papers; but those who do not may be the tax-paying part of community, and it would be unfair to tax them for the benefit of others. He would move to amend by adding: "and such paper shall be sent by the publishers to every inhabitant in the country in which the paper is published."

Mr. ROBERTSON would add, "gratis."

Mr. CHURCH would recommend the gentleman from Wayne to have the word "white" inserted between the words "every" and "individual."

Mr. STOREY had offered the section in perfectly good faith; and, notwithstanding the stampede got up, he thought it a good provision. He did not think any Legislature would enact more than one hundred pages of public laws, which amount was about twenty-five dollars to each paper, about five hundred dollars for the whole State; not so much as is paid for the publication at present to one individual. He [Mr. S.] had no interest in any printing establishment; the disclosures which the practical printers had made were not applicable to him.

Mr. WALKER believed if the present arrangement of printing the session laws in the State paper were discontinued, there would be no difficulty in getting the session laws printed, bound up and circulated within ninety days after the close of the session.

If so, he did not see any necessity for this gratuity to printers.

Mr. CRARY—After this distribution, so many thousand dollars paid, what is the benefit to the people? Where does it go to? To supply the office holders. There is not a copy to be obtained by the people, either for love or money. Nothing is done to supply the public with information. The gentleman from Genesee [Mr. GALE] says he does not read the laws sent to his office in the State paper.

Mr. GALE—I will correct the gentleman. I did not say that I did not read them, but that the people did not come to read them.

Mr. CRARY—I will correct myself. He says the people do not read them. His experience and mine do not agree. The newspaper taken into the country is read by the heads of families from the first to the third page; and I believe every person's observation will coincide with mine. The newspaper will be read, and the laws will be read in them. There is no occasion to confine it to the county or township clerk's office. Let the people know the law, and they will keep it. There are States that require the laws to be published in every paper of the State. A motion is made to amend, to publish in every paper.

Mr. N. PIERCE said—The gentleman should make it still broader, and send the paper to every family. Half of the people in the country do not take a paper. He did not feel willing to impose a tax of several cents on a person who did not choose to take a paper, for the benefit of others who did. It would not be fair. He did not think it would answer. There was a good paper, the "Educator," sent at the expense of the State to school districts. He knew they were piled up in the post offices, and sold for postage. I think [said Mr. P.] it is wrong—not carrying out the policy we began with. I do not think it will be the means of furnishing information, unless they send the paper to every man in the State, and pour it down on him, whether he will or not. I think the gentleman from Calhoun [Mr. CRARY] is not correct. I have gone with him, generally. But I think this is wrong. One-half of the people would have to be taxed for the benefit of the other half. The man that was

willing to take the paper would tax his neighbor for publishing the laws. I think it wrong.

Mr. MORRISON—My amendment was to send it to every individual.

Mr. KINGSLEY—I am anxious to have this debate closed. I do not like any of it. The proposal of the gentleman from Jackson will not operate equally. We are in a majority now, but we may not be so always; and there are sometimes two democratic parties. Is it material that you send the laws among the people? I do not think it is so material. They don't care a copper about the laws. They will not read them—they do not want to have anything to do with the laws nor the laws with them.

If the people are so much in the dark, if they are suffering so much for want of this information, why do they not publish them in the papers as a matter of curiosity? Why do they hunt up steamboat disasters and all sorts of marvellous stories, to fill up their papers? Why not publish the laws? If every body wanted to see them, self interest would induce their publication. No sir; the people do not want to see them. Does any man read a law book for pleasure? No one reads it except he wants to use it. So far from being useful, it would kill our newspapers. Who reads the laws of the United States? Who looks at our session laws? None; except it may be a commissioner of highways, or a person in some little office, to see what his duty is. The people will not study the laws. You cannot make lawyers of every body. There is no use in bribing the papers to publish the laws. The people will not read them.

The motion of Mr. BAGG to strike out "six cents," was lost.

Mr. MORRISON's amendment was carried.

The question recurring on the proposition as amended,

Mr. HANSCOM moved to strike out all after the word "Secretary," which was lost; and

The proposition of Mr. STORER was negatived.

On motion of Mr. BRITAIN, section 36 was amended so as to read as follows:

"The legislature shall meet on the 1st Wednesday of February next, and on the 1st Wednesday of February in every 2d

year thereafter, and at no other period, unless as provided by this Constitution."

On motion of Mr. McCLELLAND, all after "1851," in section 37. was stricken out, and the following inserted: "and on the Tuesday succeeding the first Monday of November in every second year thereafter."

Mr. HANSCOM moved that the committee rise, report progress, and ask leave to sit again; but the committee refused to rise.

Mr. BRITAIN offered the following, to stand as section 39:

"The legislature may authorize a compilation and reprint of the laws actually in force, whenever such reprint shall be necessary; but no revision or alteration of the laws shall at any time be authorized, except so far as shall be necessary to adapt them to amendments of the constitution."

MR. WILLIAMS was entirely opposed to the amendment of the gentleman from Berrien, [Mr. BRITAIN.] It reads: "The legislature may authorize a compilation and reprint of the laws when it shall be necessary." Now, this was embarking on a sea on which he was not disposed to embark. "Compilation and reprint;"—that was exactly the plan out of which grew the last revision of the laws. The original proposition of the revisor was not to codify, but to compile the laws; the cost of which was to be five or six hundred dollars, and a corresponding expense for printing. But some how or other, the compilation and reprint grew into a revision. The pay of the revisor proved to be several thousand dollars, and the cost of printing, (including the cost of extra legislation,) he had understood, was \$65,000; and the grand result was a mystification of the laws. Now he was against admitting any provision into the constitution that could in any event be perverted into a means of mischief. It might prove an entering wedge to another experiment of waste and extravagance.

Besides, after the expositions of the practical printers here, (he begged pardon for alluding to it again,) he was disposed to go against all prints and reprints, not absolutely necessary. If, as they tell us, the State cannot escape being cheated by the exercise of any possible ingenuity on the part of the legislature, or public agents,

let us not afford a new chance for a misconstruction that may involve the State in a great and undefined expense for printing.

Mr. BRITAIN hoped the resolution would be printed, and the discussion delayed. The proposition before the committee did not interfere with this. He wished it to operate for all time to come. What do we do when we appoint a revisor? We appoint a man for some three months to do it; his revision does not suit the people, and the legislature cut it up; amend it again and again. That is why we have had so much extravagant legislation. That is why the people look on our laws with so much loathing as the gentleman from Washtenaw has said.

The gentleman from St. Joseph (Mr. WILLIAMS,) seemed to misapprehend the object he had in view. He hoped the matter would lay over till to-morrow, when he would take the opportunity of stating his views more fully.

On motion of Mr. WOODMAN, the committee rose, reported progress, and obtained leave to sit again.

On motion of Mr. HANSCOM, the following was added to the standing rules:

"A motion that the Convention resolve itself into committee of the whole upon the general order, shall always be in order, and shall be decided without debate."

On motion of Mr. DANFORTH, the Convention adjourned.

FRIDAY, (17th day,) June 21.

The President called the Convention to order at the usual hour.

Prayer by the Rev. Mr. Merrill.

PETITIONS.

By Mr. ALVORD: of David Thomas and 185 others, inhabitants of the county of Genesee, praying that the right of suffrage may be extended to persons of color.

Also, of J. H. Sanford and 200 others, of Lapeer county; and of Wiley Bancroft and 74 others, of the county of Macomb, praying for a like provision.

Referred to the committee on the elective franchise.

RESOLUTIONS.

Mr. GRAHAM offered the following:

Resolved, That when this Convention

adjourn on Monday, July 1st, the same shall stand adjourned until Tuesday, July 9th.

Mr. MOORE offered the following substitute for the resolution:

Resolved, That this Convention adjourn on Friday, the 28th inst, until Tuesday, 9th July.

Mr. CRARY moved to lay the resolution and the substitute on the table, but at the suggestion of several members, withdrew the motion.

Mr. MOORE said he offered his substitute because an adjournment was so much talked of, and he desired to have the question settled at once. Members were continually dropping off, under the impression that an adjournment would take place, and it would be better to decide now. They had been here some time, attentively engaged in their duties, shut up, and deprived of seeing their constituents. By taking a short recess, he thought members would return much refreshed, in better health, and fully prepared to perfect and speedily terminate their duties. Yet he was not strenuous in regard to his motion; if members would remain here and go on with their work, he was willing to remain.

Mr. WITHERELL said it was the custom, on the election of a Pope, for the Cardinals to assemble in secret conclave and conduct all their transactions with secrecy. The windows of the building in which they assembled were walled up, and no one was permitted to look in upon or listen to their proceedings. The situation of this Convention was somewhat similar to that of the Cardinals; although not literally walled up and sitting with closed doors, they were cut off, to a great extent, from communication with other parts of the State, and seldom had the privilege of meeting with any one of their constituents. In fact, the roads leading to the capital were so intolerable no one could be induced to come here unless urgent business made it necessary. Since his attendance in the Convention he had not seen any strangers or any of their constituents. He understood that five Indians and three squaws, from abroad, had been seen in Lansing within the past few weeks. He thought it necessary for members to see their constituents, and as they would not come here, their only alternative was to

go to them. He was in favor of the proposition to adjourn, and as he preferred the Convention should sit where they could be in communication with the people, and see and know what was transpiring, moved to amend the substitute by adding, "then to meet at Marshall in the county of Calhoun."

Mr. COMSTOCK thought if an adjournment should be decided on, that Friday would be the proper day on which to adjourn. It would give members an opportunity of reaching home before the Sabbath, as there were those who would not travel on that day.

Mr. MORRISON said, as the amendment offered by the gentleman [Mr. WITHERELL] brought Marshall up, he would explain the situation of matters there. [Mr. M. then read a letter from the common council of the village of Marshall, tendering the use of a suitable hall to the Convention, should they think proper to meet in Marshall.]

Mr. HATHAWAY moved to lay the resolution and substitute on the table.

Mr. DANFORTH said he had in his possession a letter which would explain the move in regard to adjourning to Marshall. He would send it to the chair to be read.

Objection being made to the reading of the letter, Mr. D. recalled it.

The vote on the motion to lay on the table was taken by yeas and nays, and resulted yeas 40, nays 51.

Mr. BUSH moved the indefinite postponement of the resolution and substitute.

The yeas and nays were again demanded, and resulted yeas 45, nays 47.

Mr. WHITE said he was in favor of the original resolution, and opposed to the amendment offered by the gentleman from Wayne, [Mr. WITHERELL.] All must see the necessity of holding the sessions of the Convention at the Capitol, where they had access to the library, and could get any information they desired from the different departments.

Mr. MOORE did not expect or intend, when he offered his resolution to bring on any debate; it was merely to have the question of adjournment settled, and he wished members to vote considerably on the subject. Although he would be happy to visit and mingle with his constitu-

ents a short time, yet he was willing to remain if the Convention thought an adjournment improper at the present time.

Mr. S. CLARK said he would be glad to hear some good reason why an adjournment was necessary. His friend from Wayne [Mr. WITHERELL] had thrown no light on the matter, although he had discoursed quite eloquently about Cardinals, Popes, secret conclaves, and not meeting with his constituents.

He was opposed to an adjournment, and should vote against the several propositions. If the Convention adjourn, it would be two weeks, after meeting again, before they would be where they were this morning in their business. He hoped members would remain and go on with the business.

Mr. VAN VALKENBURGH did not know that he could give any good reason to the gentleman from Kalamazoo [Mr. CLARK] why an adjournment was proper at this time, yet he could give the reasons that were entirely satisfactory to himself. Gentlemen who had been in their seats during the month, and attended to the business of the Convention, were fatigued and needed some relaxation from their duties. He had been tired for two days. He thought the argument of the gentleman from Wayne, [Mr. WITHERELL,] that it was necessary to see their constituents, a powerful one. None of them were to be seen here; as for himself, he had not even seen the three squaws alluded to.

After an adjournment they would return invigorated and refreshed, and business must progress rapidly. The fourth of July, the great national jubilee, would be at hand during the approaching week, and as members would go off to unite in the celebrations, the attendance in Convention must be very sparse. In addition to this, farmers wished to go home for a short time to see about harvest and make the necessary arrangements.

These reasons he deemed sufficient why an adjournment should take place; nor did he perceive why gentlemen who were here with their families, should be opposed to it. He was in favor of the original resolution. On the Wednesday named for assembling again, the Convention would be full. He had no doubt but they would find all their constituents favorable to the

adjournment. Such a measure might not be necessary for those who had been absent from the Hall during the sessions of the Convention, sitting in bar rooms and walking about the streets. But it was necessary for those members who had attended closely to their duties, and been in their seats all the time, like himself. He never frequented bar rooms, but attempted to discharge his duties faithfully by being in his seat at all hours during the sessions of the Convention.

Mr. KINGSLEY said this was an important move, and would stamp the character of the Convention by the manner in which the question was decided. What were the reasons given for an adjournment? He had heard none at all satisfactory to himself, or that he believed would be satisfactory to any one else. What would their constituents say? What reply would they make when asked by them why they had adjourned the Convention and come home? Would they say as the gentleman from Oakland, [Mr. VAN VALKENBURGH,] they were *tired*? There was no necessity for adjourning the Convention. Members were leaving for home all the time. Let them go. It was a usual practice, and no one would complain; but the Convention should not adjourn over. There was no precedent for it.

He was surprised to hear the proposition to meet at Marshall. He would ask the gentleman from Calhoun, if they think the Convention could be better accommodated at Marshall than here? Have they a convenient building and accommodations for so large a body of men to go amongst them on so short notice? It may be they have. He [Mr. K.] would be unwilling to ask the Convention to adjourn to Ann Arbor, as he knew they could not be accommodated there as well as here. But to adjourn because members are *tired*, is the most singular reason. It looks bad on paper, and will not pass current with our constituents. He was a farmer, and knew something about harvest time. Harvest would not commence before the re-assembling of the Convention, if it should adjourn, and he did not wish to go home and return before harvest. The plea of farmers wishing to be at home to attend to harvesting was therefore bad, as they must return before it commenced. They could

yet spare twenty members, and have enough left to do all the business of the Convention. Let those who were compelled, go home, but do not adjourn. He should not know what to say to his constituents. He could not tell them he was *tired*. What would the whig papers say? Would they admit "*tired*," to be any reason for adjournment? They would ring from one end of the State to the other, and then they would learn what it was to be *tired*. Although they were in the woods, he was situated very comfortably. True, they were not as pleasantly situated as they would be in a city, but he was satisfied. He hoped they would not adjourn, unless better reasons were given than had been.

Again: It is urged by those who wish to adjourn, that the members of the Convention, many of them, wish to go home and see their constituents, and learn from them their opinions upon the novel subjects before us. That they want instructions how to act in the several matters introduced here. If the Convention adjourn for this reason, members will not gain their object. Our constituents do not know so much about the business before us as we do. Every man you meet will have an opinion of his own, differing from his neighbor and from our own. After an adjournment, if members consult their constituents, they will return to the Convention with more confused notions of the matters before us than they now have. Our constituents sent us here to make a constitution for them, because they thought we could make it better than they could; and they will make us responsible for our acts, however they may advise us in the premises.

Mr. DANFORTH would say to the gentleman from Detroit, [Mr. WITHERELL,] that he had lived here fourteen years. He was driven here by the force of circumstances; yet he had never regretted having made this place a home. The inhabitants of Lansing were an industrious, hard working and intelligent people, and he was happy to be numbered among them. Their population was at present over nine hundred, and the gentleman had been unfortunate to see only three squaws. He thought the gentleman ought to be contented to remain here among a population rapidly increasing; and one that would

honor any community. Every nail driven was a penny for Detroit. The new counties should not be despised by those living in older and settled portions of the State.

[Mr. W. here stated that he had cast no reflections on the citizens of Lansing, or on the new counties. He had never intended or thought of such a thing.]

Mr. D. resuming, said he felt proud of his county, and could not rest under what he had considered at the moment, reflections on the inhabitants, without a reply. He thought he could explain all about the proposition to adjourn to Marshall, how it was gotten up, &c., as he had a letter giving a history of the matter. It was all gotten up under the management of Mr. Shearman, who had gone home for the purpose, as he was informed.

[At this point Mr. DANFORTH proposing to read a letter, he was requested not to do so, as the letter was a private one. Mr. D. then took his seat.]

Mr. CHAPEL wished to know if an amendment to the amendment was in order.

The PRESIDENT—Not at this time.

Mr. CHAPEL regretted that the forenoon should be spent in discussing these frivolous matters, that did not in any way pertain to the legitimate business of the Convention. The question under discussion was a matter that should not be considered for one instant. The people expected the Convention to be held in Lansing; members were elected knowing this to be the case, and it was idle to speak of adjourning to any other place. No sufficient reason had been given for an adjournment at all—there was none; and he was opposed to every such proposition before the Convention. If it should take place, the democracy would rise and pile anathemas on the head of every man who advocated the measure. Yes, every member of the Convention would be held to a strict account for such a proceeding.

What were the reasons given by the honorable gentleman from Oakland, [Mr. VAN VALKENBURGH?] He [Mr. VAN V.] had gotten off an immense quantity of *buncombe*, but such stuff was not reason. The gentleman said he was *tired*. He [Mr. C.] was willing that all that class, the tired men, should leave the Convention and go home. If they wanted fresh air and re-

cruiting, let them go; but he thought instead of returning recruited, and with a disposition to expedite the business of the Convention, they would come back with only a large accumulation of *gas*, to be spouted out for the edification of the other members.

He was opposed to an adjournment, and hoped the matter would be voted down.

Mr. HASCALL would inquire if there was not an insuperable objection to the proposition to adjourn to meet at Marshall? By the act "providing for the time, place and manner of holding the Convention," the State Printer was authorized to do the printing for the Convention, and he was now doing the work. He could not follow the Convention to Marshall, and carry the press, type, &c., necessary to carry on the printing of the Convention.

Mr. COMSTOCK said he had been edified by the discussion called out by the propositions before the Convention, yet he had no idea that the mover of the resolution intended to get up any debate when his proposition was sent to the chair. In regard to what the gentleman from Washenaw [Mr. KINGSLEY] had said in reference to farming, he would remark that he [Mr. C.] was a farmer, and thought this a proper time for farmers to go home and make the necessary arrangements about harvesting. None would be more suitable.

He was prepared now to vote on the question of adjournment, and hoped the Convention would settle it. He was opposed to the proposition to adjourn to meet at Marshall, but in favor of the original resolution.

Mr. MORRISON—The gentleman from Kalamazoo [Mr. HASCALL] says there is an insuperable objection to adjourning to meet in Marshall, as the State Printer cannot follow us with the type, press and other articles necessary to do the printing, and that he is required to do the printing of the Convention. The clause of the act to which he referred reads as follows:

"And the State Printer shall perform the printing required to be done by said Convention, at such times and in such manner as they shall direct, and said printer shall receive the same compensation and in the same manner as is now provided by

law for compensation and payment for legislative printing; and in case the said printer shall refuse or neglect to perform the duties as aforesaid, the said Convention may appoint a printer to perform said duties, who shall receive the same compensation and in the same manner as is now provided for legislative printing."

Now, sir, if the State Printer refuses or neglects to perform the duties, we can appoint a printer; and I fancy the Convention can easily get the printing done in Marshall.

One word in reference to the remark of the gentleman from Washtenaw, [Mr. KINGSLEY,] that he would not invite the Convention to meet in Ann Arbor. The people of Marshall knew what they were about, and had considered the matter before extending the invitation. Marshall is situated in a central position, on the great thoroughfare across the State, and is a proper and convenient place for the Convention to sit. It contains a goodly number of intelligent inhabitants, a depot, telegraph office, and other necessary conveniences, and I have no doubt the people will be glad to meet us there.

It has been charged upon Mr. SHEARMAN by the gentleman from Ingham [Mr. DANFORTH] that he left here and went home for the purpose of getting up this movement. Now, sir, I doubt very much if the gentleman went home with any such view. He might, perhaps, have said to the people of Marshall that it would be well for them to invite the Convention there, but I cannot think he is liable to such charges as the gentleman prefers against him.

Mr. DANFORTH explained. He preferred no charges against Mr. SHEARMAN.

Mr. HANSCOM did not rise to inflict a speech on the Convention, but he would make a remark or two. He considered the proposition of the gentleman from Detroit [Mr. WITHERELL] to meet in Marshall, entirely wrong. It was actually necessary for the Convention to hold its sessions in Lansing.

In reference to what the gentleman from Washtenaw [Mr. KINGSLEY] had said about precedent, he would refer him to the action of the Convention in New York.

Mr. CRARY would be very happy, if the Convention desired it, to have it meet

in Marshall after the adjournment, should it take place; but he wished it distinctly understood that it was no proposition of his; one with which he had nothing to do, and he should vote against it. He agreed with the gentleman from Washtenaw, [Mr. KINGSLEY,] that the decision of the question would stamp the character of the Convention for stability, or the reverse. By remaining here, it would at least show they were doing something. Although he would be glad to accommodate members desiring an adjournment, he thought the effect would be bad, and must therefore vote against it. If they were reduced to seventy members they could go on with the business, and he was ready to go on until they found themselves without a quorum.

Mr. REDFIELD regretted very much the useless discussion that had grown out of the propositions sent to the chair; they embraced matters that could be decided in a moment. He thought the precedent quoted in favor of an adjournment a poor one. The Convention to revise the constitution in New York commenced their sessions in May, and were engaged in their duties two months before adjourning over, with little prospect of a speedy termination of their work. He hoped this Convention would go on with business, and adjourn finally at an early day. If it adjourned over for a week, two weeks must elapse before they would return here and be prepared to go on with business.

In the months of July and August, when the weather would probably be oppressive from excessive heat, members would actually require exemption from toil, and they should continue their labors in order to get through before that time. From accounts from different places it was possible the cholera might be here; and other considerations ought to induce members to go on and complete the constitution as speedily as possible. He regretted to hear the proposition of the gentleman from Detroit, [Mr. WITHERELL,] to meet in Marshall. As that gentleman [Mr. W.] had taken no part in the labors of the committees, he having refused to act with the committee on which he was appointed, he should be satisfied to remain here.

What could they say to the people when asked why they had adjourned? As yet

the Convention had done nothing, and their constituents would ask in vain for the reasons of adjourning. No act [said Mr. R.] would stamp a greater stigma on the Convention than the adoption of the proposition; at all events, it would disparage them in the minds of the people.

Mr. WHITE wished simply to make a suggestion. The great national holiday was approaching, and every individual wished to enjoy the festivities. All the villages were making preparations to celebrate the day appropriately, and many members would be glad to go home and participate in them. That, he considered a sufficient reason for a short relaxation from business. As to precedent, they were numerous. Congress and other legislative bodies took a recess whenever any occasion demanded it.

Mr. N. PIERCE—As the Convention seem anxious to have a vote on the question, I will detain them only a short time with a few remarks. It seems to me, Mr. President, we should go on and get through the business we are sent here to do. There are some fifty farmers here, and the day of harvest is nigh; but I hope we shall get through by the eighteenth of July, or sooner.

As to the motion to adjourn and meet at Marshall, there I should be at home with my family, and among my friends and acquaintances; but in my view it would be wrong and not to the interest of the State. When we were elected, we were expected to sit here, where we can have the advantage of the library, and be near the State officers to get any information of them we may want. There are plenty of boarding houses here; we are all accommodated with good seats, and there is no reason why we should go away. It seems to me if any particular section was proper to adjourn to, it would be Detroit.

I am prepared, sir, to go on with our business and do it up now. I don't think there is any use for us to go to see our constituents. They would not give us any new light, and to go away would be to throw away our time. I hope we shall keep at work and finish our business very soon. I am very sorry the question has been agitated.

Mr. WITHERELL said he felt bound to make an explanation. He had been

misunderstood by the gentleman from Ing-ham, [Mr. DANFORTH.] He [Mr. W.] had not spoken disrespectfully of the citizens of Lansing; what he did say was that people could not get here, and the Convention was comparatively shut up from other parts of the State.

He had not the least feeling against the place or the people. Every one who had traveled through the country must be satisfied with the respectability of the inhabitants.

[After some further remarks in the way of explanation, Mr. WITHERELL withdrew his amendment.]

Mr. WALKER offered the following amendment to the substitute proposed by Mr. MOORE, to come in at the end of the same: "and the members and officers of this Convention shall receive no compensation for the time that shall transpire between such adjournment and the re-assembling of the Convention."

Mr. BAGG had voted against every proposition to adjourn, and should continue to do so. There appeared, said Mr. B., to be two classes here in favor of adjourning over: the one wished to go home to see "Louise" and the babies; the other, to celebrate the fourth of July. He would be glad to see "Louise" and the baby, but intended to vote against adjourning. They had already gotten a *smattering* of the subjects before them and were now prepared to go on with business.

Mr. AXFORD moved the previous question; but withdrew it at the request of Mr. WELLS.

Mr. WELLS wished to ask two questions: first, if the Convention adjourned, what effect it would have with the whig party? Second, at what time a Washtenaw lawyer's harvest occurred?

The previous question was then renewed and demanded by the Convention, and the vote being on the amendment of Mr. WALKER, it was adopted.

The vote was then taken on the substitute of Mr. MOORE, as amended, and the substitute negatived.

The main question then being on the resolution offered by Mr. GRAHAM, the yeas and nays were demanded and resulted yeas 16, nays 73. So the resolution was not adopted.

Mr. HANSCOM offered the following:

Resolved, That when this Convention adjourns on Monday, July 1st, the same shall stand adjourned until Wednesday, July 10th, and that the members and officers shall receive no compensation for the time of said adjournment.

Pending which, on motion of Mr. McCLELLAND, the Convention resolved itself into committee of the whole and resumed the consideration of the article "Legislative Department," Mr. WELLS in the chair.

The question being upon Mr. BRITAIN'S proposed section, offered yesterday, to stand as section 39,

Mr. WITHERELL said he regarded the proposition a very singular one, as it actually prevented any alteration in the laws. It would make our laws as irrevocable as those of the Medes and Persians. He would be glad to hear some explanation.

Mr. McCLELLAND could not say that he was opposed to the proposition of the gentleman from Berrien; some general provision of the kind might be proper, but he would suggest the propriety of referring the subject to a committee, otherwise it would be discussed here, and then before the committee also. It might be proper in some other place.

Mr. BRITAIN proposed to amend his proposition by striking out all after the word "authorized," and inserting "by the Legislature."

Mr. B. said he had no objection to withdrawing his proposed section, if this were not the proper place for it. He begged leave to say that his proposed section was not embraced in that previously referred to the committee, and unless this was an improper place it should be adopted.

Mr. WITHERELL moved to amend by inserting between the words "no" and "revision," the word "general."

Mr. McCLELLAND—I will not say this is not the proper place for the section proposed by the gentleman, but it strikes me it would be proper to refer the subject to a committee. It is a question of importance and should be referred. When the committee report, they can say where it properly belongs—whether in this, or the article on Miscellaneous Provisions.

Mr. J. D. PIERCE hoped the gentleman from Berrien [Mr. BRITAIN] would accept the suggestion of the gentleman

from Monroe, [Mr. McCLELLAND.] There was an obvious propriety in referring the proposition to a committee.

Mr. S. CLARK stated that the subject had been before the judiciary committee, and was reported back and referred to the committee on the Schedule. He hoped that no revision would be authorized under less than ten or fifteen years.

Mr. BRITAIN said that all the remarks of the gentlemen placed him in a false position. The resolution to which the gentleman from Kalamazoo [Mr. S. CLARK] had alluded, differed from the proposition before the committee; he begged leave to read it, as follows:

"Resolved, That the committee on the judicial department be instructed to inquire into the expediency of providing that the legislature, at its first session after the adoption of the Constitution, shall appoint three commissioners, whose duty it shall be to reduce to a written code, the whole body of the law of this State, or so much thereof as to them shall seem expedient."

The resolution merely instructed the committee on the judiciary to inquire into the expediency of authorizing some provision by the legislature to reduce the laws of the State to a *written code*—that is all. That committee reported the subject back to the Convention on the 17th inst., asking to be discharged from its further consideration, and recommending its reference to the committee on the schedule. It was so referred. My proposition embraces much more than the resolution and should be adopted whether that committee report favorably or not.

The gentleman last up, says he hopes no revision will be authorized under ten or fifteen years. I, sir, hope we shall not have one for fifty years—yes sir, not at all, unless there be some imperious necessity. When our laws have been amended to meet the wants of the people, I do not wish to see them altered or changed at the caprice of any one man or committee of revision.

Mr. Chairman: A revision of the laws should never be made, except so far as may be necessary to adapt them to amendments of the constitution. The laws in force at any time are better adapted to the wants of the people than any revision which can be produced by any committee of revision.

because they are the result of *trial and correction*. Whenever the people find a law to work badly, they petition the legislature for its amendment, and in this way, after a series of years, the laws became suited to the wants of the people. They are the result of experiment, and should not be exchanged for the effusions of any man's brain. No man could draw up a code suited to all the various wants of the people; and when the laws had by frequent amendment been made to meet those wants, all that should be done was, to codify and reprint the laws actually in force.

Michigan had suffered three inflictions of this kind since his acquaintance with her, and he had no hesitation in saying that they were among the greatest calamities by which she had been visited. The revision of 1838 cost the State, with the session which adopted them, about \$90,000. It had the improvements of eight succeeding sessions of the legislature, costing about \$50,000 per session; by which it will be seen that the laws in force in 1846, had cost the people of Michigan between four and five hundred thousand dollars; and yet these laws, having all the improvements suggested by the people during eight years, and which the people had adapted to their wants and interests at so great a cost—yes sir, these laws which cost the people half a million, were exchanged for what?—for the results of a few months' labor of one man's brain.

Mr. Chairman: It is this kind of exchange that I protest against, and which I want to prevent hereafter, if possible. Not, sir, that I question the high order of talent of the honorable gentleman charged with the revision. No sir; no person is more willing than I am to award to both him and the honorable gentleman who produced the revision of 1838, all that is so justly claimed for them. But, Mr. Chairman, this fact only forces upon me the conclusion, that no man, however towering may be his intellect, or however unbounded may be his attainments, can render the State a service at all commensurate with the value exchanged for it. Either the laws which were succeeded by the revision of 1846 were worth the half million which they cost, or the State has been unwise in employing the various legislatures to make them for her, and continues to be

unwise in employing legislatures for similar purposes; and yet these laws, perfected by eight years labor and improvement of the people, at a cost of half a million of their money, were exchanged for a few months labor of one man. I repeat what I have already said: "no man can perform services for the State which can be worth to her any such price, as the sequel will demonstrate."

The revised statutes of 1846 came forth, an evidence it is true, of a profound intellect; but as no one man can know all the wants and interests of the whole people, it follows indisputably that no one man can draw up a statute so as to provide for all the wants and interests of the whole people; and this statute went from the hand of the revisor, the reflection of his own peculiar views, rather than those of the people.

The first embarrassment felt by the people arose from their utter ignorance of the new laws just published. The second resulted from the want of adaptation of those laws to their wants and interests; a general murmur of disapprobation ran through the State. The Legislatures were overwhelmed with petitions for amendments. The sessions were prolonged, voluminous session laws were produced, the treasury exhausted, taxes increased; and all this accumulation of evils, by a thoughtless or unscrupulous press, charged upon those Legislatures, which have perhaps been as faithful and industrious as any Michigan has ever had or can ever expect to have.

Mr. Chairman, these evils have not been produced by your Legislatures; they have been produced by your revisions! They will be produced by your revisions as often as your revisions are repeated. The Legislatures can neither prevent or avert them, and I trust we shall have no more of them.

If the laws are out of print, let us have a reprint of the laws actually in force, but do not let us have any more revisions. I should regret to see my proposition referred to the committee on the schedule, as they will be the last to report to the Convention. I wish to keep it by itself, independent, and not hung to anything else. I do not wish it reported here at the close of the Convention, and rushed through like an appropriation bill.

Loud cries of "question," "question."

Mr. J. D. PIERCE—I would suggest we are in committee of the whole and—

Mr. BRITAIN—The subject can be passed over at present.

Mr. CHURCH—The gentleman from Berrien [Mr. BRITAIN] is unwilling to have the proposition referred, and is determined to drive us to vote on the question when it is evident what will be its fate. Although it seems different from the resolution referred to the committee on the schedule, it covers the same ground.

Mr. BRITAIN—There is so much feeling on the subject, I withdraw my proposition. But I protest against the statement of gentlemen that this subject has been referred to any committee.

Mr. MORRISON offered the following, to stand as section 38:

"No appropriation of the public money shall be made for the publication of the laws of this State in any newspaper."

Mr. M. said his object in presenting the proposition was to avoid the difficulty that had heretofore arisen in reference to publishing the laws in the State paper. The Legislature had made such a provision, but he considered that no benefit was derived from it. The laws were published and bound, and ready to be distributed in book form long before they were all published in the State paper. If a necessity existed for publishing laws taking immediate effect, the Legislature could make some provision for publishing in bills, or some other mode. His object was to prevent drawing three or four thousand dollars from the treasury when no benefit was derived from it.

It was adopted.

Sec. 39. The Legislature shall have no power to pass any act to grant any license for the sale of ardent spirits or other intoxicating liquors as a drink or beverage.

Mr. VAN VALKENBURGH offered the following as a substitute: "The Legislature shall have no power to pass any act to grant licenses for the sale of ardent spirits or intoxicating drinks, except for mechanical or medicinal purposes."

Cries of "question," "question."

Mr. Van V. said—I offer this substitute with great diffidence; with diffidence, not on account of the substitute itself, but for reason of the feeling which has manifested

itself in the committee this morning—the disposition which has been expressed, to shut out debate and put down members upon this floor.

I have not made any estimate of the fate of the amendment I offer in this committee. I offer it because I believe many, if not a majority of my constituents, demand it at my hands. I offer it because it is a subject of vital interest, and the welfare of the community demands that something should be done by us, to stay the tide of misery consequent upon this unhallowed traffic. I represent in part, sir, the citizens of Oakland county, which in point of moral and intellectual worth, will compare favorably with any other county in the State. I am proud to represent the interests of such a constituency in this body, and can but regret they are not more ably represented. I have felt bound by their confidence to devote what of time and talent I possess, to their interests—to the best interests of the State. Thus far I have done so with untiring fidelity. I have been found at all times, and on all occasions, in my place during the sittings of this Convention. I have found no time to loiter about the streets or the public houses, when this Convention was in session. I have supposed the interests of my constituents demanded my attention here, and I have been in my place. When out of this house, I have endeavored to prepare myself that I might act intelligently when here, that my constituents might not suffer by my neglect.

It has been remarked, sir, by my friend from Cass, [Mr. REDFIELD,] that our constituents had sent us here as sensible, thinking men, to attend to important interests; and as I look over this Convention, I think they have not been mistaken. I am proud, sir, to be a member of this body, composed as it is, of character and intellect; it is with diffidence I occupy its time. I have listened with profound attention to all the debates upon this floor; to some indeed with more, and to others with less interest; and although many are much my juniors in years, I trust I have been profited by all. I have long since, Mr. Chairman, learned one lesson—the fallibility of poor human nature—the liability of man to err. I have often, in my own experience, found it necessary to throw by old cher-

ished opinions, and adopt others. I am not a bigot. I am always open to conviction; ready to listen to the appeals of reason; and believe Solomon was right when he said, "the fool is wise in his own conceit." And still I know not, sir, that it will answer to quote from authority which appears to be so doubtful with some upon this floor; still, if they will, for this once, permit me to do so, I will listen patiently to quotations from their favorite authors, though they should be from Robinson Crusoe or Sinbad the Sailor.

I have said, sir, I was proud to be a member of this body. I am so. I have been treated with great courtesy by its members, and have formed acquaintances that will not be forgotten. I am proud to be associated with high minded, honorable men; and I regret that any one upon this floor would attempt to suppress debate, to interrupt members, and retard the business of the Convention. I ask you, gentlemen of the Convention, are you not entitled to be heard upon the subjects under discussion? Are you willing to be deprived of this right? Certainly not. Let us then extend to each other the courtesy of a patient hearing, that we may be benefitted by each others' observations and experience.

I submit it to you, gentlemen of the Convention, does it comport with the dignity of this body, is it kind, is it courteous, to attempt to cut off debate, to raise this senseless clamor of "question," when such men as my friend from Berrien are attempting to benefit us by their experience—men whose patriotism and purity of purpose no one questions?

Mr. CORNELL—I call the gentleman to order. He is not speaking on the question at all.

Cries of "go on," "go on," and "question," "question."

Mr. VAN VALKENBURGH—Much has been said this morning, sir, about the occupations of members upon this floor—that some claim to be farmers who are not so. I have said, sir, that I represent in part the citizens of Oakland county. I do so, sir—I represent the hard-fisted, toiling yeomanry of Oakland. The morning I left my home for this Convention, I doffed the farmer's frock and left the plow to contribute my mite to your deliberations and

guard the interests of my constituents. I have occupied some of the time of this Convention, and when their interest demands, I shall do so again, and expect to be heard. Whoever thinks he can drive me from my purpose by the cry of "question," by a sneer or a laugh, has mistaken his man. I regard no such arguments. I spurn them; I spit upon them; they are the weapons of the coward and the knave, the ebullitions of ignorance and of folly. No high-minded honorable gentleman will resort to them. They pass by me as the idle wind which I regard not—they fall powerless at my feet. Now, sir, it may be said on this, as it has been said on a former occasion by some of my colleagues, that I misrepresent my constituents on this subject. I may misrepresent *their* immediate constituents. Sir, I have not the honor of an acquaintance with many of them; and upon this subject I take no issue with the gentlemen. Their constituents may demand at the hand of my colleague [Mr. RAYNALE] the appointment of a committee on Buncombe, and that my friend and colleague [Mr. NEWBERRY] have it so amended as to include sermons. If I might venture an opinion, a committee upon the last subject might at least not injure their delegates. These gentlemen may correctly represent the views of their associates; but when they claim to represent the views of my constituents, I enter my protest. They have sent me here for other purposes, and expect other things at my hands; and in saying so, sir, I know whereof I affirm.

I have regretted to see anything in this Convention, sir, that savored of party politics; I was sorry to hear the word *party* named. Have we come here to promote party objects and party ends? I have not so learned my duty. We have been told the people have sent us here to do a great work; and, in the language of the prophet of old to the importunities of Sanballat and his associates, I would say, "we are doing a great work and cannot come down,"—cannot descend to the arena of party politics. I claim, sir, to be a democrat—born a democrat, I have never swerved from its faith; but upon this floor I know no party distinctions; in the language of one of our own patriots, "we are all federalists, we are all republicans;" or

in the language of common parlance, "we are the people's men—having one object and one interest." While upon this subject, permit me, sir, to ask gentlemen of this committee if it is calculated to facilitate our business or add dignity to our body to be constantly talking about *zuncombe*? The facility with which some gentlemen bandy this term is good evidence they are familiar with the fabric. And the dexterity of my friend from Macomb, [Mr. CHAPEL,] forcibly reminds me of the old adage, "rogue first cries rogue," &c. Will gentlemen expose themselves to this imputation? Does any one believe there is a gentleman upon this floor who will sacrifice the interests of his constituents for the purpose of pleasing their ears? Any one who has come here for self-display? I, sir, should consider it a personal insult to have it charged upon any gentleman of this Convention, that he would so far disregard the high behests of his constituents, as to descend to a purpose so grovelling, so contemptible. I believe, sir, the members of this Convention have come here with good intents and honest purposes, and that they are not to be diverted from them. Let us, then, expunge this obnoxious word from the vocabulary of this Convention, treat each other with due respect, and prosecute diligently the great object before us.

Now, sir, I have said I offer this amendment with diffidence, and without any conjecture of its probable fate in this committee; but as I look around me upon this intelligent assembly—as I gaze upon the philanthropic countenances of my friends, hope is inspired, and I think I see here a pledge of the success of my amendment. What does this amendment propose, sir, and what are its objects? Does it propose to take away the rights of any man? Does it propose to trench upon the interests or character or happiness of any one? No, sir. It proposes to throw a shield between the oppressor and his victim—to protect the unfortunate inebriate from the cupidity of men who batten upon their substance, reckless of consequences—men who rob them of their character, blot out their intellect and degrade them to the brute. It proposes to cut loose our State from this cruel traffic—to wash our hands from all participation in this work of ruin and of

death. It proposes to close forever these flood-gates of iniquity—to dry up these streams of sorrow and of woe. Adopt this amendment, sir, and it goes forth as a ministering angel to the deserted hearthstone of many a ruined family, reinvesting it with the rays of hope—bringing joy and comfort to the broken hearted. Adopt this amendment, sir, and you close up one of the most prolific fountains of wretchedness and misery which has ever cursed our race—you avert the progress of a destroyer who has strewed our land with the dead, and deluged our streets with blood. Who in this assembly has not witnessed the cry of the widow and the fatherless? Who have not suffered from the exactions of this cruel monster? Are there any upon this floor who are unwilling to put forth their efforts to redeem our state from this blighting curse—to drive the destroyer from our borders, and bind up the broken-hearted?

But I have trespassed too long upon your patience. Let us, gentlemen of the committee, adopt this substitute, and we shall do more to assuage human woe—more to decrease the burden of taxes—more to contribute to the happiness of our fellow men, than all the other amendments of the organic law can possibly effect.

Mr. BAGG hoped the substitute would not be adopted; he considered the section, as it stood, to be just what was wanted. It had been debated in the committee which reported it, and he knew only one member of that committee who opposed it; he heard one other was opposed to it, and that would be only two. A large majority of the committee were in favor of the section, and he believed it to be just what was called for by a large majority of inhabitants of the Peninsular State.

The traffic in ardent spirits was a relic of baronial vassalage that had been handed down and fastened upon the people, and it was time to break lose from the odious custom. It had been said by philosophers, that to unlearn his errors was the hardest thing for man to do; and it was as true in this age as in any other.

A British colonial governor of one of the Carolinas first entailed upon us the system of licensing the sale of liquor. An expedition, gotten up under his auspices against the Indians and French somewhere

about Mobile, having signally failed, and his treasury being at a very low ebb, the system to license the sale of intoxicating spirits was resorted to to replenish it.

In regard to the license system, Mr. B. said he considered it unequal and unjust. Under it a capital of \$2,000, invested in a stock of liquor, paid no more than a capital of \$100. This was wrong. If a man was permitted to cram his liquor down the throats of people—to fill our jails with wretched paupers and send hundreds to a premature grave, he should be made to pay in proportion to his number of victims. He who kills only five by liquor, should not be made to pay as much as he who kills his hundred or thousand.

Mr. B. thought the measure embraced in the section was desired by a large majority of those who had been trying, by moral suasion, to advance the cause of temperance. They had done all that was in the power of man—all that could be done—but it was impossible to accomplish what they strove to do, while the Legislature, by its action, by the law of the land, gave a moral tone to the trade in whiskey. This entailment of Great Britain should be removed.

If [said Mr. B.] the sale of ardent spirits is an evil, why legalize it? If not, why not leave it alone, to be sold and traded in as any other article—as corn, wheat or any other commodity? If it were right to legalize the traffic in liquor, why not legalize houses of ill fame; for the support of ministers of the gospel? It could be done on the same principle, for it was no worse than to give a license to a man to murder with liquor.

If this section were stricken out, Mr. B. would propose another. All he desired was that the constitution should embrace some general principle. Could he go on and put in part after part, as he desired, to exterminate the use and sale of ardent spirits, he would do so; but this was a constitutional Convention and only some general principles could be embodied.

Mr. CHAPEL moved to amend the substitute as follows, to come in after "Legislature:" "shall have no power to pass any act, or grant any license to members of the Legislature to use intoxicating liquors as a drink or beverage, except for medicinal purposes."

Mr. GARDINER said—I do not rise to discuss the principles or merits of the proposition before the committee, although I yield to no one in zeal or fervor in the cause of temperance; but I must say I do not consider this the proper place for any provision this Convention may think proper to adopt on the subject. I believe, sir, if such propositions are embodied in the constitution, it will be endangered when passed upon by the people. This, the advocates and friends of temperance do not desire—they do not wish that the constitution, which has cost us much labor and expense to perfect, shall be risked on any such propositions. I believe I know the sentiments and feelings of the friends of temperance, and the different orders, and all they desire is to have a separate article submitted to the people, empowering the Legislature to prevent the sale of intoxicating liquors.

The section reported by the committee does not contain all we desire. For this reason it will endanger the constitution, and I therefore move to strike out the section.

Mr. BAGG—The gentleman is opposed to the section, because it does not go far enough; he wishes, it appears, to prohibit entirely the sale and use of ardent spirits. I think, sir, I also know something about the feelings and wishes of the friends of temperance; and what they ask is that the State may cut loose from all responsibility—all participation in the system of licensing the sale of intoxicating drinks. They do not wish the State to give a moral tone to the traffic, to legalize it—and sir, they are too sensible to ask any thing more. The gentleman from Washtenaw [Mr. GARDINER] and other gentlemen here, wish to prohibit the use of liquor entirely, or to put it in the power of the legislature to do so. Sir, you may just as well attempt, in this Wolverine State, to stop the use of Java and Laguira coffee, of green and black tea—to stem the Falls of Niagara in a bark canoe—as to put a stop to the use of liquor.

Mr. FRALICK was a friend to the cause of temperance, and agreed with the gentleman from Washtenaw, [Mr. GARDINER.] The friends of temperance did not wish the constitution endangered by any such provisions. They wished to place the traf-

fic in ardent spirits on the same footing with other moral crimes. If the section were stricken out, the friends of the measure would draw up a proper clause to be inserted in a proper place.

Mr. LEACH said he did not believe the friends of temperance intended to attempt the prohibition of the use, or sale of ardent spirits, by incorporating in the constitution a provision to that effect. All they desired was, to have the State cut loose from the license system—to separate the State authority—the law making power—from any connection with it. The temperance men and friends of the cause were perfectly disgusted with the license laws. He thought the section as reported by the committee, a proper one. If the legislature thought proper to do so, they could pass prohibitory laws; it could be left to them.

Mr. HANSCOM offered the following substitute for the whole matter:

"The legislature shall never pass any act authorizing or permitting the making or vending of ardent spirits, except for medicinal and mechanical purposes."

Mr. LEACH moved that the committee rise, report progress, and ask leave to sit again; but the committee refused to rise.

Mr. WITHERELL said it was well understood that without a prohibition, a person could go on and do as he pleased in regard to selling intoxicating liquors; and the true question was, whether he should do so or not. The proposition seemed to him void of any effect whatever. The men who sell liquor do not want any authority to do so; they have that right already; and the question was, whether the legislature should be authorized to prohibit that right. The power to grant the right, no one asked. The prohibition was what they asked.

Mr. EATON said if the license system were wrong, and an evil, the State ought not to countenance it in any manner whatever. He therefore moved to strike out of the section as reported by the committee, the words, "as a drink or beverage."

A MEMBER—I do not exactly understand the remarks of Mr. WITHERELL, as I did not hear them distinctly.

Mr. WITHERELL—I will explain. Suppose the gentleman is a farmer, and

raises corn and rye. He has a natural right to sell it; or if he thinks proper, to distil it, and then sell. This is his right. He does not want a license to sell his liquor any more than he wants to sell his corn and rye. For this reason, the provisions under consideration are of no effect—a perfect nullity.

Suppose the proposition read, "the legislature shall have no power to pass any act to grant a license for the sale of horses." It would be of no effect, for it is a natural right, and without constitutional prohibition, will be exercised. In the section as reported, there is nothing on which to base even an implication of the right to prohibit the use or sale of liquors, and therefore I say, it, and the substitute, are a nullity.

Mr. WALKER—I think the committee and the Convention would be entirely mistaken in their duties, when attempting to define crime. The constitution should not specify whether the sale of ardent spirits shall be a crime or not. I have, sir, a proposition to offer at the proper time, as follows:

"The legislature shall have no power to impose any specific tax, fee or compensation, to be paid by any person or persons, except corporations, as a compensation for the privilege of exercising any moral employment or profession, nor to authorize or legalize, on any conditions, the exercise of any immoral profession or employment."

It mentions no particular subject, and embraces only general principles. The standard of right and wrong cannot be fixed for any specified time. It varied even under Divine dispensation. Noah, we are told, was fond of wine. The Apostle thought a little good "for the stomach's sake;" and it is used now at most communion tables.

I think, sir, we should only embrace general principles. We should not define the sale and use of ardent spirits to be a crime, nor should we authorize the Legislature to legalize any thing which the people at large think immoral. What may be considered proper now, may be deemed immoral hereafter; and what may be thought wrong in our day, may be esteemed proper in the next generation. It was at one time a common practice for the clergy to take, now and then, a little of the "crittur."

Creeds and tenets are continually changing—sects change. There is little now that existed forty years ago. We should only establish general principles.

Mr. HANSCOM—I do not rise, Mr. Chairman, to inflict a speech upon the committee, but for the purpose of calling the attention of gentlemen to the question. I had supposed that every gentleman who heard the remarks of my friend from Genesee, [Mr. LEACH], would have fully understood that the object, and the only object here designed, was, to sever the sovereignty of the State from any connection with the manufacture or traffic in ardent spirits—to no longer throw over this odious traffic the apparent sanction of law—leaving to the people and to future Legislatures of the State the power and duty to suppress, control or regulate the whole matter, as public opinion may dictate.

It was, sir, but a few moments ago that we were debating the propriety of an adjournment of this Convention, and one of the arguments used in favor of it was, that it would have a tendency to clear the intellects and invigorate our physical and mental faculties. After listening to the arguments of the gentleman from Wayne, [Mr. WITHERELL], who has been home and visited his constituents recently, it occurred to me that it had, in his case, induced a confusion of ideas that rendered it questionable whether we had not better remain until our labors were concluded; but fortunately for the friends and advocates of an adjournment, the gentleman from Macomb [Mr. WALKER] came to the rescue, and established most clearly the fact that there might be as complete and entire obfuscation and confusion of mind where one had remained here as when he had been away; so that between the two very honorable gentlemen, they left the question fairly balanced.

Mr. McLEOD said the proposition of his friend, the delegate from Wayne, [Mr. BAGG], was simple and intelligible; whilst the remarks of the other delegate from Wayne [Mr. WITHERELL] were very far from being so. It is true that Dr. BAGG's proposition would permit every body and any body to make and vend spirituous liquors; nor was it the intention of the mover to have it otherwise. He simply wishes that the State, as a State, should not

be partakers of the wages of iniquity—should not derive a portion of its revenue from the tears and wretchedness of the victims of intemperance. It was simply the desire of Dr. BAGG to keep the skirts of the State clear from all the pollution, fancied or real, which grows out of intemperance in all its forms. It is a mere reversion to the principle of the Levitical law, which declares "thou shall not bring the price of a dog, or the hire of a whore into the congregation of the Lord." Deuteronomy 24, 14.

The motion of Mr. EATON to strike out "as a drink or beverage," was then lost.

The question recurring on Mr. CHAPPEL's amendment to the substitute of Mr. VAN VALKENBURGH, it was lost.

Mr. CHAPPEL then moved to amend Mr. HANSCOM's substitute by striking out "making and vending ardent spirits," and inserting "raising and selling corn." Which was not adopted.

The question then being upon Mr. HANSCOM's substitute, the same was not adopted.

Mr. DANFORTH moved that the committee rise, report progress and ask leave to sit again. But the committee refused to rise.

The question then recurring upon Mr. VAN VALKENBURGH's substitute, the same was not adopted.

Mr. WALKER then offered his substitute for section 39: "The Legislature shall have no power to impose any specific tax, fee or compensation, to be paid by any person or persons, except corporations, as a compensation for the privilege of exercising any moral employment or profession, nor to authorize or legalize, on any conditions, the exercise of any immoral profession or employment." Which was not adopted.

Mr. GARDINER stated that he had made a motion to strike out section 39 some time previous.

The question was taken on the motion, and section 39 stricken out.

On motion of Mr. J. CLARK, the committee rose, reported progress and obtained leave to sit again.

On motion of Mr. J. D. PIERCE,

Resolved, That the use of this Hall be granted for the purpose of a temperance lecture, on Saturday evening of this week.

The Convention then adjourned.

Afternoon Session.

On motion of Mr. McCLELLAND, the Convention resolved itself into committee of the whole on "Article —, Legislative Department," Mr. WELLS in the chair.

Mr. RAYNALE moved to strike out the words "or any county thereof," in 5th and 6th lines of section 20.

After some debate as to whether the motion was in order—whether the committee, after having once passed a section, could go back and amend, except by unanimous consent, the question was taken on Mr. RAYNALE'S motion and lost.

On motion of Mr. McCLELLAND, the committee rose, and through their chairman reported the article back with sundry amendments, in which they asked the concurrence of the Convention.

On motion of Mr. McCLELLAND, the article was laid upon the table, and ordered printed with the amendments made in committee.

Mr. AXFORD offered the following:

Resolved, That, in the opinion of this Convention, no member should be entitled to his *per diem* unless in actual attendance upon this Convention; sickness only excepted.

Resolved, That no appropriation be made for the purpose of paying any member of this Convention, his *per diem*, except for the time he shall be in actual attendance in this Convention; except prevented by sickness.

Mr. CRARY moved to lay the resolution on the table. Carried.

THIRD READING OF ARTICLES.

The articles entitled "Division of the Powers of Government," and "Impeachments and Removals from office," were severally read a third time and passed.

The Convention having arrived at the

SPECIAL ORDER,

Being the motion of Mr. WHIPPLE, made on the 17th inst., to amend section 16 of the article Bill of Rights, by adding after the word "contracts," the words "or effecting the vested rights of private persons, or retrospective in its operation;" and the same being under consideration, it was lost.

Mr. FRALICK moved to amend section 16 by inserting after the word "obligation," the words "or remedies."

Mr. F. said he wished to say a few words

in reference to his amendment. It involved a question of great importance, and the Convention should decide whether the Legislature should have the power of changing the remedial laws of the State. He thought the exemption laws of 1842, which operated retrospectively, and the law passed afterwards, known as the "appraisal law," injured materially the interests and credit of the State. All knew the result of these laws, and knew the injury they had done. He hoped his amendment would prevail.

[After some debate on the question as to the constitutional right of the Legislature to pass exemption or relief laws, and allusion to the decisions of the courts in several of the States in cases involving the question, the ayes and noes were called for on the amendment of Mr. FRALICK, and it was lost, as follows:

YEAS—Messrs. Axford, Ammon Brown, Asahel Brown, Burns, Bush, Chapel, Cornell, Desnoyers, Eastman, Fralick, Gale, Gibson, Graham, Lee, McLeod, Moore, Morrison, Mosher, Newberry, N. Pierce, Raynale, Wait, Webster, Whipple, Williams, Withereil—26.

NAYS—Messrs. W. Adams, Alvord, Anderson, Arzeno, Bagg, Barnard, H. Bartow, Beardsley, Britain, Alvarado Brown, Carr, Choate, Church, J. Clark, S. Clark, Comstock, Conner, Crary, Danforth, Daniels, Dimond, Eaton, Edmunds, Gardiner, Green, Hanscom, Hart, Harvey, Hascall, Hathaway, Hixon, Kingsley, Kinne, Leach, Lovell, Marvin, McClelland, Mowry, O'Brien, Orr, J. D. Pierce, Redfield, Robertson, E. S. Robinson, Rix Robinson, Skinner, Soule, Storey, Sturgis, Sullivan, Town, Van Valkenburg, Walker, Warden, Wells, White, Whittemore Willard, Woodman, President—60.

On motion of Mr. McCLELLAND, section 26 was stricken out.

Mr. MOORE offered the following, to stand as an additional section to the article:

"Any citizen of this State who may hereafter be engaged, either directly or indirectly, in a duel, either as principal or accessory before the fact, shall forever be disqualified from holding any office under the constitution and laws of this State."

Mr. M. remarked that he understood the report of another committee would

embrace a provision similar to this; but he thought the proper place for the subject was in the Bill of Rights.

Mr. WITHERELL was in favor of the proposition, although few duels occurred in the State. It would show that public opinion was against duelling.

Mr. CHURCH thought such a provision would be ineffectual—violated whenever persons chose to do so. It was going a great way to embody it in the constitution. Whenever it became necessary to brand the duellist; the legislature could pass a law doing so.

Mr. WHITTEMORE moved to amend the proposed section by adding thereto the words, "nor be permitted to vote at any election."

Which was carried.

Mr. HANSCOM hoped the proposition would not be engrafted in the constitution. He had never heard of a duel fought in this State. Last winter there was some talk that "Uncle Jake" would challenge some gentleman, but it all turned out mere waste paper. There was not the least necessity for the section.

Mr. WOODMAN begged leave to correct his colleague, [Mr. HANSCOM.] Mr. W. was once in Detroit when a duel was fought by parties who came over the river from Canada.

The vote was taken on the proposition of Mr. MOORE, and the section adopted.

Mr. WITHERELL moved to amend section 30, by adding thereto the words, "and shall be appropriated exclusively to the support of primary schools."

Which was adopted.

Mr. MORRISON moved to amend section 29, by inserting after "corporation," the words "except for educational purposes."

Mr. W. said his object in introducing the amendment was, to except literary institutions from the restrictions contained in the section. There were several of these institutions that held tracts of wild land, and it might be impossible to dispose of them within the time limited, unless at a great loss.

Mr. BRITAIN hoped the Convention would not consent to the proposed amendment. There was such a thing as *Mortmain*, and it was shingled over all the countries of Europe.

The amendment was lost.

Mr. RAYNALE submitted the following as a substitute for section 22:

"Involuntary servitude, unless for the punishment of crime, shall never be tolerated in this State."

Mr. R. said his object was to get rid of the word "*slavery*." It was a grating word, and his substitute covered the whole ground.

The substitute was lost.

Mr. ROBERTSON moved to amend section 10, by striking out all after the word "defence."

Mr. R. said the words proposed to be stricken out were but a repetition of a right guaranteed in a previous clause.

The amendment prevailed:

Mr. WALKER offered the following as a substitute for section 3:

"No man or set of men are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services."

Mr. W. said he thought the section reported by the committee, and as it stood, an absurdity. It was clipped from the constitution of Virginia; but there was no meaning in it in this latitude, standing alone as it did.

The substitute was lost.

Mr. HANSCOM moved to strike out section 7, and insert the following:

"Any person may publish his sentiments on any subject, being responsible for the abuse of that liberty; and in all prosecutions for libel, the truth, unless published from malicious motives, shall be sufficient defence to the person charged, and the jury shall be judges of the law and the fact."

A division of the question being had, the motion to strike out the section did not prevail.

Mr. S. CLARK moved to amend section 10, by adding thereto the following:

"Nor shall any person be held to answer for a criminal offence, unless on the presentment or indictment of a grand jury, except in cases of impeachment, or in cases cognizable by justices of the peace, or arising in the army or militia when in actual service in time of war or public danger."

Pending which, on motion of Mr. J. BARTOW, the Convention adjourned.

SATURDAY, (18th day,) June 22.

Prayer by the Rev. Mr. ATTERBURY.

REPORTS.

Mr. WHITEMORE, from the committee on the Elective Franchise, reported back sundry petitions and resolutions referred to them, from the further consideration of which they asked to be discharged.

Mr. WHITEMORE, from the same committee, reported the following article, accompanied by a resolution, the passage of which was recommended.

Article —. *Elections.*

1. In all elections, every white male citizen above the age of twenty-one years, having resided in the State six months next preceding an election, shall be entitled to vote at such election; and every white male inhabitant who was permitted to vote under the provisions of the previous constitution of this State, and their male descendants of the age aforesaid, having resided in the State six months next preceding an election, shall have the right of voting as aforesaid; but no such citizen or inhabitant shall be entitled to vote except in the township or ward of which he is an actual resident, and in which he has resided for ten days next preceding the day of election.

2. All votes shall be given by ballot, except for such township officers as may, by law, be directed to be otherwise chosen.

3. Electors shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at election, and in going to and returning from the same.

4. No elector shall be obliged to do militia duty on the day of election, except in time of war or public danger.

5. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States or of this State; nor while engaged in the navigation of the waters of this State or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any alms-house or other asylum at public expense; nor while confined in any public prison.

6. Laws may be passed excluding from the right of suffrage, and from holding any office under the laws of this State, all per-

sons who have been or may be convicted of bribery, or larceny, or any infamous crime; or who shall make, or become directly or indirectly interested in, any bet or wager depending upon the result of any election in this State; or all persons *non compos mentis*, or otherwise disqualified by a disordered understanding.

7. No soldier, seaman, or marine, in the army or navy of the United States, shall be deemed a resident of this State in consequence of being stationed in any military or naval place within the same.

8. Laws shall be made for ascertaining by proper proofs, the persons who shall be entitled to the right of suffrage hereby established.

RESOLUTION.

Resolved, That at the next general election, at the same time when the votes of the electors shall be taken for the adoption or rejection of the revised constitution, the additional amendment in the words following: "Colored male citizens possessing the qualifications required by the first section of the second article of the constitution, shall have the right to vote for all officers that now are, or may hereafter be, elective by the people, after the day of one thousand eight hundred and ," shall be separately submitted to the electors of this State for their adoption or rejection, in form following, to wit:

A separate ballot may be given by every person having the right to vote for the revised constitution, to be deposited in a separate box. Upon the ballots given for the adoption of the said separate amendment shall be written or printed, or partly written and partly printed, the words "Equal suffrage to colored persons? Yes;" and upon all ballots given against the adoption of the said separate amendment, in like manner, the words "Equal suffrage to colored persons? No." And on such ballots shall be written or printed, or partly written and partly printed the words "Constitution: Suffrage," in such manner that such words shall appear on the outer side of such ballot when folded. If, at said election, a majority of all the votes given for and against the said separate amendment shall contain the words "Equal suffrage to colored persons? Yes," then the said separate amendment, after the day of one thousand eight hundred and ,

shall be a separate section of article second of the constitution, in full force and effect: anything in the constitution to the contrary notwithstanding.

The article was read a first and second time by its title, and, with the resolution, referred to the committee of the whole and ordered printed.

RESOLUTIONS.

Mr. ROBERTSON moved to take from the table the resolutions offered by Mr. AXFORD yesterday, relative to the absence and *per diem* of members.

The motion was lost.

The resolution offered yesterday by Mr. HANSCOM, relative to an adjournment from the 1st of July to the 10th, being under consideration,

Mr. CHAPEL moved to amend the same by striking out "Wednesday, July 10th," and inserting in its stead "1st day of October next."

When, on motion of Mr. McCLELLAND, the resolution was laid on the table.

The Convention having reached the order of

UNFINISHED BUSINESS.

The same being the Bill of Rights, the question recurred on the amendment proposed by Mr. S. CLARK, to section 10, as follows:

Add thereto the words "nor shall any person be held to answer for a criminal offence unless on the presentment or indictment of a grand jury, except in cases of impeachment, or in cases cognizable by justices of the peace, or arising in the army or militia when in actual service in time of war or public danger."

Mr. S. CLARK—When I made a motion to amend section 10 of the Bill of Rights, a section which I deem necessary to protect the rights of every person in the community, I did not expect so extended a discussion. But the time that we have thus spent, has not been unprofitably so. It is a question of great importance, as much as any that has or can be presented for our deliberation. If the necessity of a grand jury has ceased, if instead of being a shield and protection, it has become an instrument by which every citizen may be oppressed, it should be known, by public discussion, so that the people may call for its abolition. I was not aware until I came here, that there was any expression

of public opinion in reference to this subject. Having had some experience in the practice of law, in the western part of the State, and supposing that I had as fair an opportunity as other gentlemen of knowing what public opinion was, I was surprised to find so strong a feeling in favor of abolishing the grand jury. I do not believe that it is the public sentiment, or that the public sentiment that is here, is a fair exponent of public sentiment throughout the State. I do not believe that there is any considerable number of the people in favor of doing away with the grand jury. What have we heard? The delegate from Cass, stated that it was public opinion in his county. Now, with great respect to him, I doubt whether that is the case with respect to his own county. I do not believe that his colleagues would agree with him. It may be true in his immediate neighborhood; unquestionably it is so; but in other parts of the county it is not so, as I am informed.

What else have we? Why, sir, a small voice from the county of Macomb. It was stated that a meeting had been held in some school house; and that there it had, with all confidence, been resolved that the institution of the grand jury shall be modified or abolished.

Have any petitions reached us from any other quarter? One would suppose that our legal tribunals would have found it out; that the judges of the supreme courts would have tried to get rid of the evils of this institution. One would have supposed that the people would have sent petitions; but in the absence of all this information I do think that it is indiscreet for this Convention to abolish this institution on the ground of public sentiment.

Therefore, this discussion will do good, it will be brought before the people, and in a short time we shall learn what is public sentiment. Public sentiment will sustain the institution. What are the objections to the institution? Let us examine them fairly; if they are founded in reason, overthrow it; if not, let us sustain it. It was established for wise purposes, by wise men.

The delegate from Cass [Mr. SULLIVAN] complains that the institution is secret—its proceedings carried on and marked in secrecy. Well, sir, I need only refer in an-

swer, to the able argument of the gentleman from St. Joseph. No person who heard that argument could for a moment doubt that it was one of its wisest provisions. He told you truly, that crime was committed in secret, and that it was only to be counteracted by secrecy. Your horse is stolen, or your barn is burned, and if you wish to arrest the perpetrator, you must do it in secret. It would be unwise to give him notice that he may flee from justice; to make it public so that the news would reach him, and the authorities could not arrest him.

This argument comes from whom? From prosecuting attorneys—law officers whose business it is to protect your property against rogues—men whose special business it is to guard the citizens against these depredations. Will they tell you to give publicity to the fact that the individual is suspected, or seize him before he knows that you are on his track, and then give him a fair trial? In my judgment, secrecy is indispensable.

Another objection there is, sir. The arguments are, I consider, inconsistent. The same gentleman tells you that the proceedings of a grand jury are too public. First he tells you they are too secret—in a few moments he says all its proceedings are known—that there is no secrecy about it. How much this argument is worth, I submit to the Convention.

But there is another view which has more influence than any other—that is the argument of my friend from Cass, that it put it in the power of malicious persons to prosecute their revenge. If that is so, if the grand jury, as constituted by our laws, can put it in the power of any person to prosecute maliciously and successfully, it should be wiped out as a disgrace. But is it so? Most men have supposed that it was a protection to the citizen from complaints founded on malice. For the purpose of bringing authorities which will weigh more than anything I can say, I propose to read from Storey on the Constitution, vol. 3, p. 658; after describing what a grand jury is, its purposes, its object, and what its purport is, he says:

"It is obvious that the grand jury perform most important public functions, and are a great security to the citizens against vindictive prosecutions, either by the gov-

ernment or by political partizans, or by private enemies. Nor is this all; the indictment must charge the time and place, and nature and circumstances of the offence with clearness and certainty, so that the party may have full knowledge of the charge preferred," &c. He insists that the institution of a grand jury is a great security against malicious prosecutions by political partizans. Here, Judge STOREY, who has had some little practice, takes entirely different ground; and yet he is probably as well qualified to judge by his learning and talents, as the gentleman from Cass. I may add the names of Kent and Marshall to that of Judge Storey, whose practice and whose precept were in favor of the institution of a grand jury, as it exists. I may, with propriety, oppose the opinion of your own highest tribunal to that of the gentleman from Cass. Did you ever learn from the judges of the supreme court, that the institution of the grand jury could be diverted from its purpose to enable individuals to gratify their malice? If it has not succeeded in preventing this, it has failed in its object. Another argument adduced by the delegate from Cass, [Mr. SULLIVAN,] was, that every person charged with crime ought to have a public examination. He appealed to the delegates of this Convention, if they would not prefer an open examination, and have an opportunity for defence, rather than have a party go before a grand jury and get them indicted. There never was a man yet charged with crime, but would prefer to be discharged, or select his own tribunal, and be sworn clear. This has been done, time and time again. It would seem that the sympathies of certain gentlemen are all on the side of the accused; that they have no regard for the public weal; that they do not look to the protection of the persons of the citizens of the State.

The grand jury is double security that a person arrested shall not have a trial until twelve men, out of twenty-three, have passed judgment, that there is probable guilt. So far from its being oppressive, it is the greatest security that the citizen can have. When taken before a magistrate, he could defend himself; (formerly he could not;) but after that, he cannot be put upon trial until judgment is passed upon him by the grand jury—twelve men

out of twenty-three—the best men, and taken from all portions of your county; and if the town assessors do their duty, they are the best men for capability. But constitute it as it should be, and as in most cases it is, after his examination, his case must be passed upon by these men, twelve agreeing; men, sir, who cannot be improperly influenced; too numerous to be bribed or corrupted; so scattered through the country that they have formed no opinion, and, therefore, cannot be prejudiced.

Is not this a protection? Will gentlemen tell me that it is no privilege, being charged with crime, to be brought before such a body of men? Tell me that this is not a privilege? These, sir, are the principal objections urged against the institution by the delegate from Cass; but there are some other difficulties in this case, which he did not attempt to meet. In the remarks to which he adverted, I did not intend to go into the discussion fully; I barely alluded to a difficulty which, to my mind, was insurmountable, and I briefly shadowed it forth; but, perhaps I was misunderstood. I attempted to show that there was a class of cases not provided for, and could not be in a satisfactory manner. I did not attempt to show that you could not, upon affidavit, base a requisition; but I did state that I then recollected two cases in which it had been done; one was held, the other failed.

What was my object? Why, to show that it was an uncertain mode—that difficulties attended it. If you see one man shoot another, a requisition based on an affidavit will reach him, and the Executive of another State will be bound to give him up; but if it is only suspicion, without positive proof, there is no way to reach him except by a bill of a grand jury. By your laws, your magistrates have no jurisdiction. You have first to arrest the criminal, then you can have an examination. Upon this subject let me call the attention to the same work that I have before quoted, Storey, p. 677. "All that would seem in such cases to be necessary is that there should be *prima facie* evidence before the Executive authority to satisfy the judgment that there is probable cause to believe the party guilty—such as upon an ordinary warrant would justify his commitment for trial." Now, sir,

you perceive that the Executive of a State requires proof before he surrenders him up.

Would mere suspicion that you believe a man has done this, or that you think he has done that, do? or would he require that there be *prima facie* evidence? This you may not be able to obtain, except through the instrumentality of a grand jury. When a person is suspected of crime, a prosecuting attorney or any one else may go before a grand jury, and the finding a bill settles the question. The Executive is bound; he cannot go behind the indictment; but a requisition based on an affidavit he can deny; if the proof is not strong enough he will; he would require *prima facie* evidence of guilt to cause him to be given up.

Have we a substitute for grand juries? No answer has been made to this question, nor an attempt to answer, except the suggestion of the delegate from Cass, and that was imperfectly shadowed forth. Did he mean that a system of criminal information was to be resorted to? Does a prosecuting attorney stand up in this place and proclaim this principle? I ask him to repeat—that instead of a grand jury he would resort to criminal information. There is no man who has the hardihood to assume any such ground. It would give him a notoriety which would last as long as time should endure. What is a criminal information? An indictment in form and substance, filed at the mere discretion of the officer of the government.

Mr. SULLIVAN—I stated distinctly that I was not in favor of that plan—that information filed should be valid by the concurrence of one, two or three justices of the peace, or whatever should be inserted instead of that tribunal. I wanted no proceedings instituted upon the word of a prosecuting attorney.

Mr. S. CLARK—I did not believe that the gentleman dared or had the wish to assume that ground. But let us look one moment at what he would attempt to substitute—let us see if it is better. He disclaims the position that information should be filed on the mere motion of a prosecuting officer, but is willing to do so upon the certificate of a single magistrate, and this power to be granted to all—even to such as

are elected sometimes in some of our towns. Dare a gentleman assume this position, and have it go to the people of this State? Does he wish to put a citizen upon trial upon the certificate of a single magistrate? I do not disagree with the gentleman about their character; they are useful in their place, but frequently unqualified.

A citizen may be dragged from a foreign State upon the mere certificate of a single justice of the peace. It resolves into this, sir: you can send for A, B and C at the instance of irresponsible men—an accusation can be made that a citizen of a foreign State has been guilty of a crime—you can drag him from home and put him upon trial.

I appeal to the law officers—I ask them to reflect. There is something to be said upon both sides, and it calls for the deep deliberation of this Convention. I trust, therefore, that we shall not take this step. This institution abandoned, what remains? What provision is there left to reach that numerous class of cases to which the gentleman from St. Joseph called your attention? He tells you that many crimes have been committed by large gangs from a neighboring State, passing backward and forward, doing their work in secret; and if you do away with the grand jury what provision have you left to reach them? I, sir, am not prepared to take this leap in the dark—I dare not do it, sir.

There is another consideration in reference to this matter; and I do not allude to it with a view of giving an opinion other than a legal argument—giving it and leaving this Convention to judge what weight it is entitled to. By the Ordinance of 1787, this institution is granted to this territory and the States composing the same. It reads: "No man shall be deprived of his liberty or property but by the judgment of his peers or the law of the land."—(*Kent's Com.*, p. 12.) Mr. Kent says, the words "the law of the land," as used in magna charta in reference to this subject, are understood to mean due process of law; that is, by indictment or presentment of good and lawful men; and this says Lord Coke, "is the true sense and exposition of those words." Now, it was the intention (how far that may be binding upon us now may be a question, but it was the intention) to guarantee forev-

er the institution; that whoever should inhabit this territory should have the right of presentment and examination by a grand jury, before he shall be brought to trial. In reference to the binding nature of this Ordinance lawyers differ. But without assuming it legally binding, I might give the opinion of Mr. Jefferson—he thought that it was. He was one of your progressive democrats. He deemed that it was a matter of some little consequence.

There was another objection which came from the delegate from Washtenaw. One of the objections which operated upon his mind was that the mode and manner of drawing up an indictment made it almost impossible for the prosecuting attorney to discharge his duty with ability and fidelity—made it almost impossible for him to prepare his indictment; being called on suddenly and unexpectedly, the indictments were quashed and the criminals escaped. This objection should not have much force. In most of these cases it is a very simple matter to prepare an indictment. In most cases, there are printed forms, where nothing is to be done except to fill up the name, date and offence, and it is not two minutes' work to fill one up.

But in most of these cases of offences that have been examined, they are bound over. The prosecuting officer can go to the sheriff, ascertain exactly how many criminals there are bound over, have all perfectly prepared, submit the indictments to the grand jury, and have them pass upon them. When he knows the offence, it is his business to be prepared.

Before I return to this matter, I will merely allude to the remarks of the delegate from Monroe, [Mr. McCLELLAND.] Coming from him I regretted it; for I know the influence which he wields upon this and other bodies. His judgment is in accordance with that of nine-tenths of the people of this State—that is, in favor of retaining it; but perhaps from looking around and seeing that it was likely to be stricken out, he came forward as a mediator, and to preserve the form if not the substance. What does he say sir? that he sees no necessity after an investigation had been gone into before a magistrate, to go before a grand jury. If a magistrate is as well qualified—if it is as safe a tribunal—if the party can be as well

protected before a single magistrate as he can before a grand jury, then there is force in his argument. If not, I ask him to come forward, and save this institution.

But he made another remark in which I concur. I would, feeling as I do, much prefer that it should remain as it is, subject to the future action of the legislature; I would rather the question should go before the people; let them examine it, and come to a clear, dispassionate conclusion with regard to it; I would rather run that risk, than that this Convention should abolish this institution.

If I am correct in my views, and if a substitute is adopted, what will the people say when you present the constitution for their acceptance? They will say, sir, we sent you there for no such purpose; there were palpable reforms called for; we sent you there to reduce taxation; we sent you there to arrange the system to single districts, biennial sessions, and reforms in town and county government; for reforms in the judiciary; we did not send you to tamper with the rights and liberties of the citizen. Are we called upon to do this? Has public sentiment demanded that so sensible, intelligent and deliberative a body as this, should take this step? I repeat, sir, it is a leap in the dark.

There was another attack upon the institution which I deeply regretted at the time, coming from the high source it did. I allude to the language of the gentleman from Calhoun, [Mr. J. D. PIERCE.] He called it a farce. An institution, approved by the names I have mentioned, a farce—that the highest legal tribunals have been enacting a farce! Is this the language that should be used on the floor of this hall—thus to denounce an institution established for the liberty of the citizen—established by the wisest and best men, for the wisest and best purposes. We should be enacting a farce, a serious one though, if we carried out the sentiments of the gentleman from Calhoun. But he does not seek to meet it by argument; he seeks to create prejudices; and by what means? By ridicule. To my view, that is not the proper way to treat a question of this kind. What have we to do with the nobility of England, which is an institution that we have abandoned? What have we to do with the examples by which he has endeavored

to prove that this institution is a farce? We are here acting as a grave, deliberative body, forming an organic law, by which the people of this State are to be governed in years to come. We are examining an institution formed by our wisest men; and if it has failed, let us strike it out; but do not let it be ridiculed. Other institutions have been abused. The institution of religion is ancient and venerable, and yet no institution has been more abused. Those who are ministers have not always conducted themselves with propriety. Shall we strike it down, or correct the abuses and maintain the institution? That would be what every christian and philosopher would seek to do—correct, reform—not destroy. But it has been said that precedent should have no influence. In one sense it should; in another it should not. If the principle has failed, precedent should have no influence; but in the absence of this fact, it should. Precedents, to a great extent, control your courts. We are influenced in all the actions of life by precedents, and with propriety, when an institution has been established as this has. In the first formation of our government it was left out, and it came near endangering the constitution itself, when submitted to the States. The public feeling was so much in favor of it, that it was amended; and it has been followed up from that day to this by every State in the Union. I would ask, in the absence of argument upon the other side, when we look back, is not precedent worth something? I ask you, if you would destroy an institution thus established, without a substitute and without a reason. Sir, it is like the farmer who would cut down the venerable oak which has furnished a shade and a protection for years, because it may have dropped an acorn upon his head.

These are some of the reasons that induced me to address you to-day. If I have erred, I am willing to be corrected; but I would warn the opposers of this institution not to destroy it without they bring forward a substitute. Let it go forth, and let the voice of the people be brought to bear upon it.

One word with reference to the proposition: I am not willing to change it substantially. I believe we ought to have the whole institution, or nothing. I do not

mean to be understood that I would insist that all the petty, minor offences should be investigated by a grand jury, but I see no reason why it should be confined to capital ones. There is generally more pains taken, and stronger efforts made; the party has a fairer trial than he has in other cases. It is to protect the citizen in many cases where the crime is not capital, that the institution is found the most beneficial.

Mr. McLEOD—Mr. President: As I differ in my views on this subject from those expressed just now by my learned and estimable friend on the other side of the house, I shall proceed to a review of his position, *seriatim*, with whatever of success and brevity I may.

The chairman of the committee on the Bill of Rights [Mr. S. CLARK] seeks to reinstate a clause of the old constitution, which was omitted by the committee on the Judicial Department, and which tends to continue in force the institution of the grand jury, as it exists at present, and has existed from time immemorial. In support of his views he has presented us with a skilful and elaborate argument, which, from the well-known abilities of that gentleman, and his official position in regard to the subject, may be supposed to embrace all, whether of right or expediency, that can be said in favor of the proposition before the Convention. I shall, therefore, claim excuse if I occupy more time in reply than I would otherwise feel justified in occupying from the general business of the Convention.

My own position in regard to this subject is somewhat peculiar, as well from my geographical situation as the delegate from the broad counties attached to and including Michilimackinac, as from the fact that I have been a Prosecuting officer for a term of years, and have never, in a single instance, so far as my memory now serves me, appeared as counsel for the defence. As a consequence, I may believe that my views and sentiments, perhaps my prejudices—indeed all those feelings of whatever class or name which grow up from long habit and unwittingly twine themselves about us—have all been in favor of retaining the machinery which I have ordinarily employed in carrying out the duties of my office. Nor was it until the inconveniences of the present grand jury system

forced themselves so palpably upon my observation, that I could at all bring myself to the consideration of the question, whether or no, the system might be dispensed with, and something less cumbrous and expensive be substituted in its stead. The district which returned me to this Convention, exclusive of the counties represented by my friend from Chippewa, covers an area equal to nearly one third of the entire State. Its boundaries cannot be given more accurately than in the language of a patriotic Kentuckian when boasting to a cavilling foreigner of the vast possession of the United States. "My country, sir, is bounded on the north by the Aurora Borealis, east by the rising sun, south by illimitable space, and west—west by the DAY OF JUDGMENT! Such, as nearly as I can ascertain them, are the limits of my district. Over this vast expanse of territory our people are scattered in little groups and villages, composed of small classes numbering a few hundred each, and representing an infinite variety of interests. From these classes, spread over so vast a space, we are compelled to summon six of our grand juries; and that, too, in a region where every day taken from the time of the juror is a serious interference with the means of subsistence. What alternative is, then, presented us? Shall we give up catching our white-fish and trout! Shall we neglect our little crops of potatoes which protrude through the unfriendly gravel, uncovered and unconscious of earth? Shall we neglect the craving demands of appetite—the bare means of support for ourselves and children, in order to inquire into offences against the State? Or shall we attend to the pressing interests of our own household, and permit crime to go unwhipped of justice. The practical effects are these. Crime is perpetrated with impunity; misdemeanors pass unnoticed; the restraints on vice are removed or lessened, until at length some felony of unusual heinousness throws us back upon the instinct of self-preservation, and we employ the semblance of legal proceedings to protect our lives and property. I say the *semblance* of legal proceedings, for so impossible, under our circumstances, is a technical compliance with the law, that we protect ourselves by the administration of a modification of the Lynch code in fact,

dressed up, as far as practicable, in the forms of law. This condition of things obtains, to a greater or less degree, in many, perhaps all, of the smaller counties, and the results must ever be the same, to wit: an utter neglect or avoidance of the means of legal punishments, or else a suicidal submission to wrong and outrage. Which shall we choose? Accident must, in a great measure, determine.

I am satisfied, Mr. President, that the documents laid before this Convention by the Secretary of State furnishes us, in a very limited degree, with the actual amount of expenses, direct and incidental, which we incur by reason of the grand jury, as at present constituted. Nor are these expenses so trifling as the delegate from St. Joseph would have us to believe. It is not the mere amount of fees to the jurors themselves, or to the returning officers, that constitute the main items of expenditure. It is the vast and incalculable items which do not appear of record, but which show in the current expenses of the county and impoverish our feeble treasuries year after year. The counties of Oakland and Livingston can bear me witness to the truth of this statement, and so, I doubt not, can most of the large counties of the State. But upon this branch of the subject I am not fitted to dwell, all unskilled as I assuredly am, to measure the value of any institution by the mere rule of dollars and cents, or to place gold in the scale against any thing that may conduce to the public weal.

I have a more serious objection to the grand jury; and one which has forced itself most painfully upon my attention in the execution of my official duties. Not long since there were two persons, in a certain representative district of this State, candidates for the same office. One of them was successful. The other, impelled by mortification and instigated by a desire for revenge, resolved upon blasting the reputation of his rival. He preferred a charge involving a serious offence to the prosecuting officer of the district. That officer, upon an examination of the matter, informed the complainant that the allegations would not sustain an indictment. "Then," said the complainant, "I will go to the grand jury, where I am sure a bill will be found." "But of what use will be

your bill even if found? I shall most assuredly obtain leave to enter a *nolle prosequi*; and your object will be defeated." The answer of the complainant, more true than politic, deserves to be recorded and perpetuated. "I am aware of that, *but my end will be attained*. If the grand jury find a bill, as I know they will upon the *ex parte* testimony I can introduce, it will be said that twenty-three good men and true, on their oaths, believed the accused to be guilty; and then, if acquitted by the traverse jury, or discharged on a *nolle prosequi*, it will be said he escaped through some quibble of the lawyers." Now, sir, it is true the bill was not found; but it was only through the firmness of the Prosecuting Attorney, who threatened to expose the whole affair, and prefer a complaint against the complainant himself if he should persist in his unhallowed design. How many unrecorded instances are there of this description! How many countless cases where the motive is malicious—the object oppression, and the result disgrace and ruin to the hapless victim! Had that bill been found, a stain would have attached itself for life to a guiltless man—a stain that not all the waters of the Jordan could have washed away. The combined weight of character of twenty-three sworn citizens would have been brought crushingly and damningly to bear upon the reputation and happiness of one unfortunate, and upon his children and children's children after him. He would virtually have been accused, tried, convicted and punished—aye, punished morally, punished terribly! Scorn would have pointed her finger at his offspring; cowardly propriety would have shrunk from his approach; the Cain-mark would have been upon his brow, and in his soul, and doubt, if not conviction of his guilt, would have dogged his footsteps like an evil spectre. And yet the grand jury may have been honest and averse to wrong. Talk as we may—reason from abstractions as we will, it is nevertheless a truth in the philosophy of the human mind, that if you suggest even a bare doubt against a man's character, however unsupported by facts, you commit a positive injury which time often fails to cure. How much more when twenty-three men of standing in the community shall have

solemnly put a fellow being on his trial, perhaps for an infamous offence, upon certain evidence locked up in their own breasts and which he can neither discover or explain.

I have repeatedly asked grand jurors upon what grounds they found a bill; and have, in numberless instances, been answered—"Well! A. B. and C. D. testified so and so, and we knew that if the accused was not guilty, he could easily show it upon trial. So no harm could be done. Besides, as the charge has been made, and would be repeatedly brought against the accused, we thought it only fair that he should be put upon his trial that he might convince the world of his innocence." In this case—by no means an unfrequent one—a benevolent motive was pressed into the service of oppression. The jurors seem not to have dreamed that they were uniting the weight of their individual characters and official position to the ingenious malice of the complaint and the ready testimony of the witnesses of the prosecution against the character of a fellow-citizen, unfortunate and defenceless.

Facts and reflections such as these, have induced me to examine into the workings of the ancient system; and when I found it perverted from the original and benevolent design of its institution—when I found it a terrible instrument for the purposes of malice and the infliction of wrongs—when I found it machinating in secret and springing its mysterious plottings upon the unwary victim—when I recognized it as an independent solecism in our administration of justice—as a cumbersome and expensive machine for the accomplishment of an insignificant purpose, I came to this Hall prepared to support a proposition for its instant and utter abolition. To such a conclusion, have my observations and reflections led me, nor have I been induced to swerve from it by aught I have yet heard from the ingenious and talented advocates of the system.

I now propose, sir, to review the positions assumed by my worthy friend the delegate from Kalamazoo and chairman of the committee, [Bill of Rights.]

His first position is, *that the subject is a new one—one little discussed amongst our constituencies, and upon which public sentiment has not been brought to bear.*

I am afraid, Mr. President, that I must leave this branch of the subject upon whatever merits it may have, to wiser and abler heads than mine. Public sentiment, as a rule for my conduct, is of indifferent potency at the best. If public sentiment be right, I am guided by it as an additional and strengthening motive; but if wrong, I despise it and pursue my own way. I yield not my conscience, my tongue or my vote, in slavish submission to public opinion, *as such*; nor can I at all sympathize with such as do. A decent *outward* compliance with the conventionalities of society, or the prejudices of a community, I can understand and appreciate; but an unresisting submission to an uninformed and wavering public opinion, which at one moment shouts "hosannah!" and the next exhausts itself in "crucify him! crucify him!" I would trample as the dust beneath my feet. On this subject I have with me the conviction of right, and I will present my own views in my own way, though like old Bullion, "solitary and alone I put the ball in motion." It seems to me strange however, sir, to discover so general a misapprehension of the position which we and each of us sustain on the floor of this Convention. I hear on all sides of me the phrases of "house," "constituents," "representatives," and others of the same purport, till I have actually fancied myself in a legislative body attending to the ordinary routine of business.

I do not consider myself as the representative of a particular constituency, as I should if I were in a legislative assembly. I represent one-hundredth part of the sovereignty of the State, that is divided into one hundred portions, and we hold them by a sort of common tenure—we have the sovereignty in common.

Now, sir, I know from what I have been able to hear, that the people think they have been oppressed, that they have to put a great deal out of their pocket and get little for it; and they have sent us here, as symbols of their distress, to carry out their views; and whatever measures suggest themselves to me, I shall present, without reference whether the subject has been mooted or not. So far with respect to public sentiment.

My friend from Kalamazoo [Mr. S. CLARK] says that the judges of the Su

preme Court would have found out this defect if it existed. I do not know that. I have a most unlimited amount of veneration for them, but they are not necessarily so far in advance of the age as to find this fact out alone. They may not have had time, as I have had, when perched upon a little rock at Mackinac, with nothing to distract my attention from all these moral and philosophical questions.

We have upon this floor two representatives from the Supreme bench. One has proposed—what? To indict a man before a grand jury of nine, and then put him on trial by a petit jury of twelve.

Now, there is some little doubt in the minds of our jury with respect to this necessity of a grand jury. The gentleman from Kalamazoo says that it was established for wise purposes by wise men. It may have been so, but the reason that brought it into existence has ceased. I am willing to believe that at the time of its institution it was useful. I find that it was founded for the purpose of interposing between the rights of the subject and the prerogatives of the crown; that at the time of its institution human life and liberty were as soap bubbles thrown in the air, and this was placed to guard against the injustice of the crown. When the crushed worm turned upon its heel—when the people, whose liberties were held in its iron grasp, turned in their majesty and asserted their rights and it was found necessary to appease them by placing some obstruction between.

Another view has been taken—that it goes back into the dust of ages. Those who wander in the dust get their eyes sometimes blinded.

It was supposed that a traverse jury must be composed of the commonalities, that they were more liable to be acted upon by threats and cupidity—more at the disposal of the law officers of the crown than the gentry. They supposed that the crown could threaten a traverse jury, that a trial by a traverse jury would not be a sufficient security. Some gentle blood was interposed; men whose thews and sinews were not hardened by toil and the rough winds. Therefore, the knights and gentlemen were interposed between the exactions of the crown and the liberties of the subject and the weakness of a tra-

verse jury. They took a higher grade of men; but this has long since ceased to exist—we all feel ourselves to be kings and sovereigns. We feel that the necessity of such a state of things no longer exists, that the end for which a grand jury was instituted has ceased to be operative; in other words, that the same ends can be gained without the objections which are urged against the grand jury.

The feeling that induced our fathers to institute a grand jury was an incorrect one, and it has been under correction ever since we formed our Constitution. It is a feeling that has taken deep root and cannot be easily shaken; but, however excellent its construction was, however well it may have at the time answered its purpose, the main reason has ceased to exist. When we emerged from our revolutionary condition, all the details were a mere experiment. We had asserted human liberty and raised a platform upon its broad basis; but in detail took the system of the old world. Except with positive objections, every thing was retained, and when we formed our Constitution we took what was law before us, asking no questions for conscience' sake—so that no argument can be drawn at the present day that it was invented for a good purpose by wise men. The gentleman from Kalamazoo [Mr. S. CLARK] says that the charges come from the prosecuting attorney; so they do, and with a better grace than from any other class of men. These twenty-three men come before the judges under imposing circumstances; but it is the prosecuting attorney who is engaged in examining witnesses with them—who knows the general views of the members of the grand jury, and it is he who knows whether its effects are good or pernicious. I think, therefore, that it comes with a peculiar propriety from those engaged in the prosecution. Few can see the great strength of argument that is used in reply to my friend from Cass, [Mr. SULLIVAN;] he says his argument works both ways, that it is public and private. It is so, sir, and its privacy is useless and its publicity is useless. Now with respect to the secrecy in the case I mentioned: Here is an individual who gains all the effect of punishment where it ought to have been an open trial. It is public where secrecy would have been val-

uable. The secrets are borne by the birds of the air on the wings of the wind and the whole community know it—there is no secrecy where it would be valuable to the public safety. I ask you to look at this. If you go before a prosecuting attorney and make a complaint, it may be done for malicious motives and may affix a stain. But in the case of the prosecuting officer it is but one man that gives his weight. If the complaint is before a magistrate, it is only a magistrate; but when you assemble twenty-three men and can gain an indictment, the weight of twenty-three men is thrown upon you, if malice governs them.

Now I am entirely at a loss to perceive the argument on the other side, with respect to the composition of grand juries; the magistrates are composed of the same stuff as grand juries, have the same motives, passions, and virtues. Many of the justices of the peace are members of the grand jury—if you have an intelligent grand jury, you have an intelligent magistracy. If you have a grand jury ignorant, you have magistrates the same. All men are of the same earth and are subject to the same influences.

One argument deserves notice—where we have to arrest a man on a requisition. The gentleman from Kalamazoo [Mr. S. CLARK] tells us at the same time, that if you go to the Executive of a State for a requisition, you must give *prima facie* evidence before you get a requisition. Sir, I do not wish that a man should be arrested on suspicion. Does a grand jury do this? No sir, there is probable cause. This is the case where we go to a board of magistrates or one magistrate. The prosecuting attorney must show probable cause, or it should not go before either a magistrate or a grand jury, and the same weight of testimony that would induce a grand jury to find a bill, a magistrate in issuing a warrant, would authorize the executive to comply with the requisition.

If crimes are brought to my notice, if probable cause is shown that an offence has been committed, however mean the condition of the informer, I see no argument that would throw me upon the grand jury rather than upon a magistrate, for they are all influenced by the same mo-

tives. The Executive of a State would be no more than any body else.

Something has been said about the peculiar aptitude of grand juries for detecting border crimes. Sir, I can see no good argument in this reasoning. You can lay any information before a magistrate with more secrecy and with as much certainty of prompt justice being obtained, as by a bill from a grand jury. I am fully prepared to go for an entire abolition; if the Convention do not go so far, I shall go for the proposition of the Hon. delegate from Monroe, [Mr. McCLELLAND,] as that proposition I consider better than retaining the institution in its present shape.

Mr. TIFFANY—I am in favor of the section, as reported by the committee. Its construction is simply this: it does not abolish it—it does not consider a grand jury requisite; and we should neither insert it in our Constitution or abolish it; because if we do so, everything will stand still until the legislature finds a substitute.

Respecting the arguments of the gentleman from Kalamazoo, [Mr. S. CLARK,] if there was any force in them, I was unable to perceive it. If a magistrate receives a complaint, and it is apparent that it is founded in malice, he would be liable in trespass for it, and correctly too; but he may go before a grand jury and upon the same evidence obtain an indictment, and that throws around the prosecutor of this false accusation, a wall of defence—whereby they are shielded from all liability against their illegal acts. This is where we should object to the system. It goes beyond the law, in bringing a man to answer in the courts of justice. The law calls together the grand jury, and the grand jury can bring an innocent man to trial with no evidence at all.

There is another objection to the grand jury. When a complaint is presented to a justice of the peace, the defendant has a right to a defence. But, before a grand jury the witnesses are shut up, and what does it avail if he can show his innocence? He must go before a traverse jury to prove his innocence. The opportunity of investigating crime before a magistrate is greater than it is before a grand jury. Before the latter, the prosecuting attorney is the only man whose advice is taken. Before a magistrate there is an examination of the

facts. Then, if the justice is satisfied that there is *prima facie* evidence of guilt made out, why not try him without the presentment of a grand jury? I am, however, opposed to its abolition. Let us leave this section as it now stands for the legislature to say what disposition shall be made of it. Let the legislature decide whether crimes shall be presented by grand juries, or some other mode; but let us not abolish it by the constitution, when we have not any mode proposed that can be substituted in its place. Before the legislature meets, several courts will be held, and they will, by the abolition of the grand jury, be deprived of the power of proceeding.

Mr. McLEOD—The schedule could manage all that.

Mr. ROBERTSON—I do not expect to throw much light upon this subject, but I desire to add my feeble testimony to that of others, against the system of grand juries; and I conceive there has been a misrepresentation on this floor, in regard to the force and extent of public sentiment on this question. I would not be governed by public sentiment when it is clearly against my own convictions of right; yet I would bow to it with all proper deference when it is right. Nearly a year ago, an article appeared in a Macomb paper, which was copied in nearly all the democratic newspapers in the State. It went for the total abolition of grand juries, and was generally approved of. There is a feeling prevailing through the length and breadth of the State against grand juries.

The gentleman from Kalamazoo, sir, has made some rather sarcastic remarks upon the public meeting in Macomb, held at a school house. It was a large and respectable meeting of the citizens of Romeo, held at a school house, because it was a large building; and the delegates from the county of Macomb were requested by that meeting and others, to use all honorable means for the purpose of abolishing grand juries. These resolutions, I allow, would not entirely influence me against grand juries; but from an examination of the workings of the system, I am convinced that it is unnecessary, and even oppressive. No man more highly esteems the high and honorable sentiments uttered by the gentleman from Kalamazoo, while giving his reasons for clinging to the time-honored in-

stitutions of our forefathers, than I do. This is a beautiful and noble sentiment—the reverence for antiquity. Yet, though many years have rolled by and found this institution still honored and admired, we should not therefore be blinded to its faults.

In the country from which nearly all of us derived our origin, there was a time when baronial halls were found all over the country; when the rich and the great armed and entrenched themselves in strong fortresses to protect themselves; when might was right. But now, where the old fortresses frowned, are seen beautiful villas. And this arises from the greater security of life and the operation of known and equal laws.

The institution of chivalry, too, that has done more in a barbarous age to ameliorate the condition of mankind than any other, that of religion alone excepted, has fallen before the scythe of time. It inculcated high and honorable sentiments. But they have done their work—the masses have become inoculated with them; and the knight is no longer seen careering on his steed.

The institution of grand juries is more ancient than chivalry, and was in existence before the feudal system. It was of Saxon origin; and in Saxon times it was necessary to find a bill of indictment—twelve men composing a grand jury, and their decision being final and conclusive, except when an appeal of battle was claimed, or some other of the ancient tests of innocence or guilt. By degrees it has been modified, until it has become the system we now so much admire. It has been said, here, Mr. President, that it was instituted in the first place, as a check against the prerogatives of the crown; wrested from King John by the armed barons at Runnymede. This is not so. It was at first a mere court of inquiry, under the Saxon laws, to investigate and punish crime. But after the Norman conquest, when the strong arm of power had crushed the spirit of liberty, it was then first claimed as a check on the power of the crown, by the barons and gentlemen themselves, who alone formed grand juries.

Gentlemen say it has always been the bulwark of the people. Has it always given protection to life and liberty? Let them look at the long black record of the Eng-

lish State trials for the answer. Let us examine the mode of a prosecution by the crown. The king appointed the sheriff, and he selected as he pleased, the grand jury. He would, of course, appoint such men as would please his master. We have all read of the bloody circuit of Jeffries. Why could he, at the command of James, perpetrate such butcheries? Because the crown had, in its own hand, the instrument by which both grand and petit juries were summoned. Thousands of judicial murders have been brought about by means of grand and petit juries. They have committed the basest of crimes, and have murdered the most innocent of men.

Public sentiment is not yet ripe; but I hope to see the day when traverse juries will not be considered in the same light as they are at present; but crimes as well as all other questions, will be tried by judges elected by the people, and responsible to them.

What is there in this institution that protects the citizen? I may add my slight experience as a prosecuting officer, to that already given, that in nearly all the cases where crime is really committed, an examination takes place first before a magistrate. If the accused is held to bail or committed, he awaits the action of the grand jury, which almost always under such circumstances, finds a bill. A grand jury sometimes find a bill on the oath of a complainant, without a full investigation of the facts, and frequently on mere suspicion. So that all the purposes of justice, in my judgment, are more fully met by an examination before a magistrate. After an examination has been had, the prosecuting attorney goes before the grand jury with the case, and the testimony for the prosecution alone is stated; and that for the defence withheld. What is the use of this, when they are almost certain to find a bill? Nay, I have heard magistrates say, that as the matter was to go before a grand jury, they would hold a prisoner to bail, when I am positive that, if they had been called upon to say whether the accused should be tried or not, he would have been discharged from custody. I want no such tampering with justice. It seems to me, that if a magistrate was called upon to decide without the intervention of a grand jury, he would more carefully examine the

case—that he might do nothing improperly that would affect the liberty of the citizen.

It has been supposed that the plan recommended would lead to great difficulties. But would this be the case? On an examination, the testimony is reduced to writing, and signed by the witness, when the record and testimony are sent up to the superior court. I would be in favor of the prosecuting attorney filing an information in the nature of an indictment. This might be done immediately, and the unfortunate, perhaps, innocent man, soon brought to trial, and not left to rot in a jail before conviction. It is for the benefit of the poor man—the rich man can find bail, and sometimes forfeits it to escape from justice. The poor man should be brought to trial, as soon as possible, that if he can, he may show his innocence at the earliest moment, and save his otherwise blasted reputation. I contend it would be for the benefit of the criminal, as well as for the saving of expense. The machinery would be less cumbersome, and justice more expeditious. Besides, the weight of the influence of a bill found by twenty-three good men of a county is sufficient, in many cases, to damn the cause of the person accused.

The gentleman from Kalamazoo [Mr. S. CLARK] is afraid that certain classes of criminals cannot be arrested; that there is no mode of proceeding against those who are *suspected* of crime. Can we proceed justly against any man or men on mere suspicion? It is opposed to the spirit of our institutions, and—

Mr. S. CLARK—I said for the purpose of getting proof, where there was no means of getting testimony, except by a grand jury—that the grand jury could find proof where no other means would avail, when a party is not arrested.

Mr. ROBERTSON—Well, sir, if crime is suspected in any part of this county, can not the prosecuting attorney or complainant go before a magistrate and inform him, by affidavit, that he believed so, cite his witnesses and have an *ex parte* preliminary examination—a sort of little grand jury? If the law is not sufficiently stringent now to compel their attendance, how easily could it be made so. I believe that can be done, and has been done, as the

law now exists, so that the objection is of no validity.

It has been suggested that a person might be put on trial through the malice of an officer. I think there is no danger of that, for the pressure of public sentiment is upon him—he is responsible to the people. The writ of *habeas corpus* still remains—we do not propose to abolish it. By that writ we have a right to examine into a commitment and the testimony on which it was founded. It is the easiest thing in the world to bring up a case and settle the question, whether the criminal is properly held to bail or not.

The argument of expense has been adverted to. While I should think nothing of the expense of maintaining a valuable right, I would avoid any useless expense if possible. An examination takes place before the magistrate that would be the same by the system proposed. Under the present system you incur the *additional* expense of going afterwards before a grand jury, summoned from all parts of the county—paying the sheriff for summoning them—again summoning the witnesses for the people—paying for the attendance of three or more officers to wait upon the grand jury—and what is worse and more useless than all, taking up the time of courts and sinking vast amounts of money by those frivolous cases which might as well be disposed of at once before a magistrate. It seems to me, sir, this expense might be done away with without injury to the citizen, and with great advantage to the pockets of tax-payers.

I am opposed to the amendment of the gentleman from Kalamazoo and hope it will not prevail; and further, I think grand juries should in express terms be abolished.

Mr. BUSH—I have listened to the discussion with considerable interest, and I have concluded that our duty is marked out and clear; mine is, at least. I believe that this Convention is as good an exponent of public sentiment as any we can have in the State. Well, sir, taking the views of the different delegates, what do we learn? We learn that doubts exist with regard to this institution in the minds of most. Some say that it is not safe to abolish it—that public justice cannot be carried on without it, and that violence and crime would go un-

whipped of justice. Others contend that it is not essential to the ends of justice. Conflicting views are presented by gentlemen from the same county. Then what is our duty? Shall we—when men whose opinions are entitled to the highest consideration thus differ—shall we insert in the fundamental law of the land, words that will forever make the institution absolutely necessary and imperative upon the country? I trust not. Shall we take the other extreme, when public opinion is not settled? I trust not.

Let us look back but a few years. How long was public sentiment discussing other subjects upon which it is now settled—for instance, the propriety of electing a justice of the peace? Ten years ago but few men dared to hazard the opinion that judges should be elected, and the finger of scorn was pointed at it by every professional man in the State. Now how changed, and within ten years; and the light of experience shows that it is perfectly safe and the best way. So with some other officers. Shall we in this matter fix the term in the constitution, when within five years the spirit of the age may demand a change? Does the gloom of antiquity so dazzle the eyes of the gentlemen?

I am willing to leave it to the Legislature; if public opinion demands it, it will be abolished; if it is found that justice is perverted, it will be restored. The Legislature will, to the extent of their ability, carry out the wishes of the people. Public sentiment is not yet settled; do not abolish it; you may inflict a serious injury, but do not place it in the Constitution. You may find that you would be better without it. All must agree that it is expensive.

If there is any thing to be corrected, it is the serious expense of the Government. The people have cried out for reforms in the expenses of the Government, and perhaps there is not any one thing that can be dispensed with, that entails as much expense as this institution. It has been an expense to the county of Livingston, of from \$10,000 to \$20,000. It may be of use, but leave this matter as it has been reported, and we are safe; take either of the extremes and we may do injury, while the matter will soon be settled by public opinion.

Mr. McCLELLAND offered the following as a substitute: "It shall be competent for the Legislature to change, modify or abolish the present grand jury system."

Pending which, on motion of Mr. WHITE, the Convention then adjourned.

Afternoon Session.

The Convention was called to order by the PRESIDENT.

The President announced a communication from the Auditor General in answer to a resolution of inquiry adopted by the Convention on the 17th inst.

The same was read and laid upon the table.

The Bill of Rights being under consideration,

Mr. SULLIVAN remarked, that having twice before addressed the Convention upon the subject of abolishing grand juries, he should say but few words, and that by way of reply to gentlemen who had today addressed the Convention on the other side. The gentleman from Kalamazoo, [Mr. CLARK,] had inquired why, if the grand jury system is a bad one, the Judges of the Supreme Court, had not petitioned for its abolition. He did not pretend to know what the opinions of the Supreme Court Judges were upon this subject. He denied, however, that it could be fairly inferred from their silence and inaction that they are satisfied with the system as it is. Obvious considerations of propriety and delicacy would prevent them from making an attempt to influence, as a body, the actions of this Convention. As individuals, they are entitled to their opinions, and the free and unrestrained expression of them; but to bring their official power and influence and dignity as a body, to bear upon this Convention, would savor far too much of dictation; and he was satisfied they had no disposition to do it. He did not approve of awaiting the recommendation of any five or six men upon this subject, however eminent their position or talents.

We are sent here to frame a Constitution without dictation from any quarter. It is to us the trust is confided and according to our own judgment it is to be fulfilled. The gentleman from Kalamazoo [Mr. S. CLARK] is in favor of an elective judiciary.

Is he sure that such is the opinion of the Judges of the Supreme Court? He is in favor of an independent supreme court system. Is he certain that this is the system which they would recommend? He had said that we are not to await the recommendation of any department of government. Still less are we to wait the action of the judiciary—a department for which he had indeed high veneration—whose habits and pursuits were such as to give them great powers of analysis and reasoning, but who, were yet, from the necessity of their pertinacious adherence to precedents, apt to acquire an undue reverence for the past, to entertain a fondness for ancient institutions and a disinclination for important reforms. There were eminent exceptions to the rule; but the rule he believed to be as he stated. We have been referred to the opinion of Judge Storey in favor of this institution. He did not understand from anything read on this occasion, that he was in favor of it. Judge Storey gave a history of grand juries, and spoke of it as one of the designs of the institution to interpose a shield between the citizen and unjust accusation. It was merely historical. He did not consider it as an expression of his own opinion in reference to the subject. If it was, we are not to be shackled by it. There is not an error in science, or politics, or religion, that may not be bolstered up by the authority of some great name. He could prove by the same authority which the gentleman quoted, that judges should hold their office during good behavior, and that they should be appointed by the Executive. It is only by breaking over the authority of great names, that important reforms are ever effected. The Savior of mankind, the greatest of all reformers, demolished at once all the ethics of the schools, and all the institutions of religion in the world. Our reformed protestant religion, in which most of us believe, was founded upon the ruins of errors that had existed for centuries.

When he addressed the Convention formerly, he stated that it was vastly better for the accused that he should have a public examination, where he could cross examine witnesses and introduce evidence. The gentleman from Kalamazoo [Mr. S. CLARK] admits that it would be better for the accused, but not equally well for th

public. Now, it struck him with great force, while he made this admission, that in quoting the opinion of Judge Story as authority, he repudiated the reason upon which that opinion was founded. The reason which Judge Storey assigns for a grand jury is, that it tends to shelter the innocent from unfounded accusations. Now, the gentleman from Kalamazoo insists upon it, only as a measure beneficial to the public. While, therefore, he presses upon this Convention the opinion of Judge Storey as a basis of action, he admits his entire want of confidence in the reasoning by which it is sought to be sustained. The Ordinance of 1787 has been supposed, by the gentleman from Kalamazoo, to stand in the way of abolishing grand juries. It provides that no man shall be deprived of life, liberty or property, except by judgment of his peers, or by the law of the land. It is insisted, and authority is produced to sustain it, that the design of the provision was to secure to the inhabitants of the north-western territory immunity from punishment for crime, except by virtue of established legal proceedings, among which is a presentment or indictment by grand jury. It appeared to him that it was quite a strained and far-fetched construction of the Ordinance. But, whether that opinion was just, or whether the Ordinance of '87, rules of inheritance and all, had any application to us, were questions he should not consider. He did not believe the Convention considered it all applicable to us. Innumerable regulations had been passed in this State in opposition to it. The gentleman from Kalamazoo himself [Mr. S. CLARK] virtually discards it as authority. For, if it is binding, no man can be punished for any offence without indictment or presentment by a grand jury; and yet the gentleman does not insist upon presentment or indictment where minor offences are committed.

He had been charged with gross inconsistency in complaining at one moment that the proceedings of the grand jury were secret, at another that they were public. He had supposed that he explained himself upon this point in a manner not to be misunderstood. In this he regretted that he was mistaken, and was glad that the gentleman from Mackinac [Mr. McLEOD] had explained in his clear and lucid man-

ner, what he had himself stated but feebly and imperfectly. The complaint, as had been forcibly said, was both against their secrecy and publicity. They were secret where they ought to be public—they were public where they ought to be secret. When persons are complained of to a grand jury, the crimes of which they are accused and the result, every body finds out; for these are facts disclosed by witnesses, and they are precisely the matters which should be secret. The manner in which the examinations are conducted, the kind of evidence received, the exhibitions, if any exist, of partiality or prejudice, these are matters which should be public. Substitute one, two or three magistrates in the place of a grand jury, let them receive complaints secretly, and where the accused can be found, let the examinations be public, and you obtain the double advantage of secrecy and publicity—of secrecy where it is wanted, of publicity where that is desirable. A great deal has been said of the incompetency of magistrates to discharge the duties which will devolve upon them if grand juries are abolished; and yet these same incompetent magistrates, in point of fact, bind over almost every person who is convicted of infamous crime. The practical effect of the proposed measure is to change but very little the power of magistrates—it is principally and almost entirely to destroy another tribunal. In opposition to the opinion expressed of the utter incompetency of magistrates, he referred to the fact that ever since we had been a State, and long previous to it, they had been pronounced competent by the people to try civil cases where the amount in controversy did not exceed one hundred dollars. To do that requires a far greater stretch of intelligence than to discharge the duties proposed to be confided to them, because the criminal law is far less complicated, and its administration requires far less legal learning than that of the civil. Consider the vast number of cases disposed of by this tribunal, a number far exceeding that of all the other courts combined—consider how few cases are taken by appeal or *certiorari* from their decision; compared with the whole number adjudicated, in how few instances are their decisions reversed, and he thought it would be manifest to any one that their incompe-

tency was not as represented; but that, on the whole, whatever individual exceptions might exist, they were a substantial, intelligent and trustworthy body. He would not pursue the subject further; he did not rise, as already stated, to enter into a vindication of the propriety of abolishing grand juries, but simply to reply to some arguments in favor of its continuance to which he had not before adverted. That he had done, and as the discussion had been protracted and the convention were evidently becoming weary of it, he would pursue the matter no further.

Mr. J. D. PIERCE—I do not rise, sir, to make a speech, as the remarks in favor of grand juries have been so fully answered that there is no need. I wish to read from a law magazine. At the quarter sessions for the county of Middlesex, England, the judge in his charge to the grand jury, remarked, that he hoped the bill to abolish the grand jury system, then before the House of Commons, would pass into a law. The editor of the Law Magazine says: "We wish our judges would follow his example, as it is time that this relic of oppression should be done away, and that grand juries be no longer permitted to sit in mystery and darkness in this land of freedom."

✓This is good common sense, and accords well with the principle that grand juries are inconsistent with the principles of our government.

Are not magistrates our own countrymen? Grand juries are the same.—I wish to see the day come when the judges will be elected by the people; not looking back to the dust of past ages, but adapting themselves to the wants of the present day. I do not believe that the wisdom of ages gone by should be exclusively looked to; there is wisdom in the present day. And I believe that there is more protection, more safety in the officers elected by the people, than in all the grand juries there has ever been.

In reply to the arguments of the President, in respect to the moral power, I stated that there was moral power in a great many places—in a school room—not only in places—in a newspaper; and that many trials before a grand jury were farces.

What magic is there in twelve? It has been said that there were twelve tribes,

twelve patriarchs, twelve apostles; but the number of seven is no less peculiar. There are seven stars, seven seals, seven spirits, seven wonders, seven wise men, and many other sevens; and for what good reason should not that be the number as well as the magic number of twelve?

I did intend to have answered the arguments of the gentleman from Kalamazoo, but they have been fully answered.

One remark I may make. Would the Governor of any State refuse to give up a person when the requisition was in accordance with law? Must we keep the grand jury in session for the purpose of making these requisitions? Must not the Executive conform to the laws of the State? I think it an absurdity to affirm the contrary.

Mr. HANSCOM said that he had listened with profound attention to the debates upon this, as he considered it, most important question. But one gentleman, his honorable friend from Kalamazoo, [Mr. CLARK,] had argued in favor of the incorporation of the provision contained in the old constitution and in the constitutions of the various States of the Union, as applied to grand juries. Several gentlemen, for whose opinions he entertained the greatest respect, had advocated the other extreme, and proposed, not only the total annihilation of the grand jury, but, by the incorporation of a restrictive provision, to place it beyond the power of future Legislatures or of the people, except by a re-organization of the organic law, to create or re-organize it.

Common courtesy at least demanded that some answer should be made to the gentlemen who had so liberally showered invectives upon an institution that, by many, was regarded as the safe guard and shield of the citizen, and the best guardian of the rights of society.

This contest has assumed a triangular form—the two extremes and the middle course, or that policy that has been alluded to as the one favored by the honorable gentleman from Monroe, [Mr. McCLELLAND,]—placing him in the attitude of a political trimmer, a character not unlike that by the accomplished historian, McCauley, ascribed to Halifax. But he was fearful that he should, upon this question, be compelled to adopt a similar policy. He was unwilling to adopt either of the ex-

tremes—there was danger in the one, and the other, in his judgment, was impolitic and unwise.

Both wisdom and prudence would dictate that before we tore down and razed from its foundations the edifice that has sheltered us from infancy to manhood, we should at least make preparation for the erection of some tenement to shelter us from the tempest and the storm. But here one proposition was to adopt, as applied to the affairs of society and to the administration of criminal law, this unwise and imprudent course. He warned gentlemen that they were treading on dangerous ground.

Another proposition was to retain the present system as it was, with all its cumbrous machinery and manifest defects, and to place beyond the law-making power the means of applying a corrective. As applied to the higher grade of offences—those involving life or punishment in the State prison—those that render the citizen infamous and should operate as a deprivation of the most valuable and sacred rights—he was disposed they should be passed upon by some tribunal, analagous at least, to the grand jury, before the party charged should be put upon his trial before the traverse jury.

It was one of the citizens' most valued rights—it was one of the guards that wisdom and humanity had dictated and experience had proved necessary to be placed as a barrier to shield the individual against oppressions of government, the influence of associated power, or the designs of the malignant and vindictive prosecutor. But what was the substitute proposed? The old monarchical covert and the meretricious system of information, that had prevailed and would prevail in the absolute and tyrannical governments of the old world. It would be found but illy adapted to the free institutions of our own country, and, as he believed, destructive to private rights, and abhorrent to the feelings of every freeman in the land.

As a matter of economy, examinations before justices of the peace were proposed to be conclusive, and force the party charged to appear before the traverse jury in the circuits for trial; and it has been remarked that in all cases where the party was bound over by the justice or examin-

ing magistrate, an indictment followed. So far as his experience and observation were concerned, such was far from the fact. On the contrary, not to exceed one-half, or perhaps one-third, of the persons who, by the determination of examining magistrates were held to answer, were indicted. The grand jury, selected from the great body of citizens, scrutinized with great care the character of the parties complaining and charged—the nature of the offence—the motives that influenced the complainants—the amount of credit due the witnesses. Strangers to the transaction, uninfluenced by fear, favor or affection, their finding was generally just. Exceptions there were, it was true; but those few exceptions furnished no argument against the system. As well might it be argued that the Congress of the Union or the Legislatures of the States should be abolished, or that all your judicial tribunals should be suppressed, because of the enactment of bad laws or the giving a bad decision in isolated cases; the institution of christianity might be assailed upon such an assumption, with quite as much propriety.

But another and great objection is, that secrecy is among the recognized modes of proceeding in grand juries; and that by reason of that fact, injustice may be done to the citizen. Gentlemen forget that the objects of a grand jury are two-fold—the protection of the individual is one; the guardianship of society against the depredations of individuals, is another; and this feature in its organization, is designed to subserve particularly the latter. It might also be important as applied to the reputation of persons charged with the commission of crime. Crimes are ever perpetrated in secret, and no effective system of police ever has been, or could be devised, unless the operations of the agents to whom those duties are confided, acted with secrecy. The torch of the incendiary has been applied at midnight to your dwelling. The crime has been committed; and it becomes the duty of those administering the law, to ascertain the perpetrators. The law of necessity, of self preservation, compels you to investigate in secret.

But another objection is, that it is anti-republican and anti-democratic; and the course of argument adopted to prove it,

would equally well prove that every institution designed to guard property, liberty, or life, was equally so. Much had been said by gentlemen, as to the danger of placing in the hands of a malicious prosecutor the means of destroying the reputation of the citizen, by continuing a system where the proceedings were shrouded in mystery. In theory the argument sounded well, and had at least the merit of appearing plausible; but practically, it had no foundation; and in fact, the very opposite was true. But was not the plan proposed to be substituted open to much more serious objections? You may have an incompetent prosecuting officer, or an incompetent examining magistrate, and the ends of public justice be defeated; or you may have a malignant and malicious prosecutor, and the rights of the citizen endangered; and while he had the highest respect for justices of the peace, and regarded them generally selected with reference to their fitness, it was needless to deny but that stupidity and ignorance, knavery and rascality, at times, were elevated to the bench of that class of courts; and here it was proposed to leave to that body of men—to the *dicta* of either of the four proposed to be elected in every township—the power to not only commit or bind over to answer, the party charged, but to make their action conclusive upon the prosecuting officer, and absolutely put the accused upon trial before the traverse jury in your courts of record. Either he was entirely mistaken, or in the more populous counties the criminal calendar would be loaded with a number of causes, as yet entirely unprecedented in the history of the State; and not only enormous expenses entailed upon us, but a flood of evils follow the arrangement, that, when aggregated, would be unendurable. The proposed experiment was a dangerous one, and he asked gentlemen to reflect that the proposed amendment placed beyond the power of the legislature to restore the present system, or one analogous to it, except by a constitutional amendment. Leave it to the legislature, and the people at least, to pass upon the question, so that if your experiment fails, they can at least have power to re-construct what we have torn down.

But, sir, what weight is there really in the objections urged—that malignant prosecu-

tors may ruin the innocent citizen—that, under this system, the expenses of the administration of the criminal laws are to be decreased—the persons composing the grand juries are frequently men unfit for the duties. Then comes another class who tell us it has existed long enough, and we ought to experiment in something new. Experimenting in your fundamental laws was, to say the least, dangerous. But let us look at the charge that is urged, that this institution endangers the rights of the citizen. My judgment leads me to conclude that the reverse is true. Who ever saw a grand jury assembled, that had not upon it some gentleman of the highest order of intelligence; of a thorough acquaintance with human nature, of sagacity and intelligence, who was seldom at fault—men, in short, of most honorable and manly character? Such, sir, is most unquestionably the fact. By reason of their isolation, they cannot be supposed to partake of the prejudices or the feelings, one way or the other, that of necessity exist in the neighborhood or immediate locality where the offence charged was perpetrated, or where the accuser and accused reside, and have their respective partizans and friends; and as a necessary and natural consequence, their action would not only be entirely impartial, as applied to the people and the party charged, but absolute independence of action is secured, the natural and necessary element to induce the fearless and efficient administration of the law; and sir, it is not at all presumable that a body of men thus selected from distinct and different localities, and placed in the jury box, will act otherwise than right and just. These are the same men who constitute your justices of the peace; and it is a far-fetched and unwarrantable conclusion to say that any one of this same number could better guard society and the individual charged, than the whole body when acting in concert, and their inquiries directed to the same end, and having in view the same purposes. The individual, who, instigated by malignant motives, designs the ruin of an enemy, would find far greater facilities before a single justice of the peace or examining magistrate than before any grand jury that ever yet was empanelled. If a man of wealth and influence, he could at all times procure the

aid of talented, yet unprincipled legal advisers, to aid his schemes of vengeance. *He selects his own tribunal*, and the individual thus selected, would of course be chosen with special reference to his adaptation to consummate with most certainty the work of destruction, and the ruin of the party accused; and here, sir, the fiat of that magistrate so selected is to be conclusive upon the innocent party. He stands before the world a convicted felon, until a trial before a traverse jury, involving him in expenses that may work his ruin, shall have pronounced his innocence. Notwithstanding the acquittal, the work of destruction is actually accomplished. But this is but one of the few phases in which this subject must be viewed, in order to fully understand and justly appreciate the enormities that might be practiced under it. Your law officers—your prosecuting attorneys have been, and may again, be influenced by malignant and unworthy motives; and here you propose to invest that officer with this most tremendous and dangerous power, without placing between him and his victim the grand jury—that institution that has ever been known and recognized since its existence, as the most effectual barrier that you could interpose between the exactions of power, the demands of excited passions and popular tumult, and the citizen. Tell me not, then, that the great objects that led to its incorporation into the great charter of British liberty, into the fundamental law of this Union, into the fundamental law of the various States, has ceased to exist. Those reasons may not exist to the extent now that may have existed in times past; but they have not yet ceased to operate; and while man's nature remains unchanged, while organized government exists, they can never cease to be operative.

But, sir, I have thus far spoken of the institution as the defence of the individual. There is another and still more important element of its organization that must not be forgotten—the protection of society; and it has been during this discussion that I have heard for the first time, that it was anti-republican, anti-democratic, to ferret out and ascertain the perpetrators of crime, by investigations conducted in secret. If it really be contrary to the genius and spirit of our institutions and government to

pursue inquiries, designed to ascertain who has, at midnight, assassinated a fellow citizen, or who is the incendiary who has applied the torch to your dwelling, the merit of the discovery is due to members of this Convention, and the science of government and of the administration of the criminal law has been, as yet, most imperfectly understood. Sir, the very fact of a crime having been committed, presupposes that it was perpetrated in secret. The fact that a crime has been committed, may be entirely apparent—most usually is so. The inquiry before your judicial tribunals is, who was the perpetrator? You find a citizen murdered—the fact is apparent. You find your dwelling reduced to ashes. You are conscious that it was the work of an incendiary. Then commences the inquiry as to the perpetrators, and upon the assumption of gentlemen, the public should be notified in the most ample manner practicable, that A, B or C, was suspected, or that there were facts and circumstances tending to indicate that he or they were the guilty party. Such a course of proceeding would present a novelty in the administration of this most important branch of jurisprudence, that would, beyond doubt, meet the entire approbation of every rogue and vagabond in the country, whose business it is to depredate upon society. Whether it would as well suit, or be adapted to the interests of the law-abiding portion of our citizens, I leave gentlemen to determine. Away with all such far-fetched and impracticable schemes; they are entirely unworthy the intelligence of this body, or the people who sent us here. They did not convene us here to tear down and destroy every safeguard that the experience and wisdom of ages had created, to guard their lives, their reputations and property.

But, while one gentleman argues in favor of its abolition because it is a secret tribunal, another tells you it should be abolished because it is too public. This last objection, if true—and I concede that to some extent it may be so—is a misfortune, and only shows that no system that is absolutely perfect can be devised. But we are told that the institution is to be abolished as applied to the city of London. Well, sir, suppose the fact to be so. Does it follow that a system of criminal police

adapted to that great city would properly apply to the small towns or rural districts of our State? But, it was assumed by gentlemen, at least by the venerable gentleman from Calhoun, [Mr. J. D. PIERCE,] that this abolition in that city was induced because of its tendency to oppress or work injustice to the individual citizen. I, sir, understand the matter entirely different. By reason of the enormous increase of crime in that gigantic metropolis, it has for years been a subject of inquiry among the political economists and statesmen of that country whether the safety of society, the protection of its great interests, must not be more securely guarded, even at the expense of surrendering some of those guards designed to protect individuals, and adopt more summary and extraordinary modes of proceedings. But there is no parallel between their condition and ours; and no argument drawn from any system of criminal police adopted either in London or any of the great continental cities of Europe—Paris, Vienna or Rome—can with any propriety have any force as applied to us. What, sir! will gentlemen seriously talk of introducing among us the arbitrary and tyrannical modes of proceedings existing in the absolute governments of the old world?

We are told that there are States and governments that get along without grand juries. True, sir, there are many, and, in fact, most of the governments of the earth, that have no such institution. Russia, Austria and Turkey might have been cited, and should have been, to have shown, as they do most clearly, the fact that grand juries and arbitrary or tyrannical governments do not exist together; they are peculiar to free governments only. It is only where public safety and private security go hand in hand—where the rights, powers and duties of both the government and the citizens are defined, limited and controlled, that a grand jury has ever found favor or even existed.

The gentleman from Kalamazoo [Mr. CLARK] asked gentlemen who propose the total annihilation of the system, and the incorporation into the constitution of a provision placing it beyond the power of the Legislature or the people to restore or create any system of grand juries, for a sub-

stitute. The only answer I have heard was that the wisdom of the Legislature would find a substitute. Yes, sir, the wisdom of the Legislature, in a session of *forty days*, only to occur once in two years, was to provide all the principles and details of a code of criminal procedure for the State. The whole thing is fraught with mischief and danger. The Legislature devise and perfect a system! Sir, with all the boasted wisdom assembled in this hall, we have not as yet been able to find a substitute—not even to propose one that any sane man would dare have put in practice. The old system of criminal information is disclaimed by the gentleman from Cass, [Mr. SULLIVAN;] and yet the system proposed is but the same thing under a new guise and a different name; and I defy any gentleman here to point out the difference. Substantially it is the same. Gentlemen seem to forget that the right to deprive the citizen of his personal liberty, to subject him to imprisonment, is one of the most tremendous powers conferred by the people of this country upon their government. They have conferred the power for wise purposes; but in doing so they never designed to destroy all the guards placed by the wisdom of ages between them and the exercise of that power. Will any gentleman on this floor seriously contend that at the mere beck of some prosecuting attorney, who controls some examining magistrate, upon suspicion merely, any citizen of our State may be dragged from his home and compelled to undergo a trial before a traverse jury in a court of record, for a pretended violation of law. But, sir, this power is not proposed under this system to be confined to those resident within our own jurisdiction. The same power that can act at home you propose to act universally. Under the practical workings of your proposed plan, an innocent man may be torn from his home in a distant State—brought here for trial—his reputation injured—his fortune dissipated, at the beck of either one of your two thousand justices of the peace in our State. Ingenuity could not devise a better plan to enable the vindictive, the unprincipled or the malignant, to gratify all the passions of hatred, of malice, of envy or of wickedness than you now propose. But, sir, you retain, even the semblance of a grand jury,

and you render comparatively impotent all these efforts at mischief.

But, there is another and most important class of cases that gentlemen seem to have overlooked. I refer to crimes perpetrated within our jurisdiction by individuals or bands of desperadoes from other States or countries. Crimes of the highest magnitude may be perpetrated, and the perpetrators are in a foreign jurisdiction before you can, by process of law, arrest them. What will you substitute for the investigations and indictment of the grand jury, upon which a requisition follows as a matter of course, and which is of itself conclusive evidence of probable cause, and by the comity of the States of the Union, and the stipulations of treaty as applied to nearly all the governments in connection with ours, is unquestioned by the Executive authorities of those States and governments? A little reflection will convince gentlemen that they are proposing a most dangerous experiment—one beset with difficulties innumerable; and that too, sir, in our organic law.

If the Legislature commit errors, however great, they can be retrieved—the next session may correct the mischief. There are experiments that might with propriety be tried there, that it would be most unwise to try here.

Sir, I can only look upon this proposition as fraught with danger, both to individuals and society. On the one hand you place it in the power of any malignant villian to destroy the reputation of the object of his hatred—to drag him into your highest judicial tribunals, charged with the commission of the most infamous of crimes; and though theoretically considered and held as innocent until convicted, yet practically condemned as guilty until a verdict of a jury shall have announced his innocence; and even then not relieved from the suspicions that ever attach to those accused of crime, even after acquittal.

On the other hand, you are proposing to break down and forever destroy the best guard yet instituted to protect society against the perpetrators of crime.

Now, I ask gentlemen who seek the destruction of this time honored institution, to at least propose to us some plausible, some possible substitute—that in desert-

ing an institution around which has centered the hopes and affections of Englishmen and Americans for centuries—we may at least have an imaginary excuse. We are charged, sir, by the gentleman from Calhoun with clinging to this institution because it found its origin in the mists of antiquity. I need not stop to answer such a suggestion; because an institution or a principle is old, it furnishes, in my judgment, no valid reason for its overthrow. But, sir, as matter of fact, the origin of the present grand jury is not so completely obscured by those mists as that gentleman supposes. No, sir, the history of the struggle between the barons and the people of England on the one side, and the crown on the other, that led to the memorable and, for that day and age, the extraordinary concessions made by king John to the barons and people at Runnymede, is matter of sober history, and as familiar to the English and American schoolboy as any incident connected with the history of our mother country. *Magna Charta* is the very basis upon which the institutions of this government now rest. The great and fundamental principles of human liberty—of the rights of the citizen or subject—of the limitations imposed upon arbitrary power, were there most clearly, specifically and admirably defined. And, sir, to that charter and the great and invaluable truths there enunciated, are we, in common with the people of these United States, indebted for the social, religious, civil and political freedom and privileges now enjoyed. It was an infringement of that charter that peopled this continent. It was a violation of its provisions that unfurled the sails of the May Flower and landed the Pilgrims upon the rock of Plymouth. It was the attempted abrogation of its provisions that allied the colonies of this Union in resistance to the mother country, and led to the declaration of independence, the war of the revolution and the freedom of these States.

Sir, gentlemen talk of progress, and have the hardihood to call this proposed innovation *progress*. It is progress backwards—progress towards despotism—towards the dark ages, when mankind were worse than serfs, the playthings of arbitrary power. The struggle to secure these very rights now proposed to be abrogated

was only purchased by the blood of millions who struggled in the great cause of popular freedom—it was a concession wrung from arbitrary power to the people. And now, sir, in this enlightened age, in this free land, it is gravely proposed to go back to the system devised by tyrants to enslave and fetter the people—to a system devised to keep in the ascendant the divine right of kings.

But, I have trespassed too long upon the patience of the Convention; the importance of the subject under consideration I consider a sufficient apology. In conclusion, permit me to deal for a few moments in matters that I regard as having a practical effect upon the subject under consideration. I am no advocate for the present system, as it now exists in our State. I have long thought it liable to the most serious objections. The whole system needs re-organization, pruning and rearrangement; that is a different thing from total annihilation. A diseased limb may need to be amputated—a useless branch lopped off—and yet not engender the necessity of destroying the life of the patient or cutting down the tree.

Now, sir, I am in favor of leaving this whole matter to the Legislature. Make no provision in the constitution requiring you to retain the present system, nor any completely abrogating, not only the present, but any and all other systems. If we make no provision on the subject, the present system will remain until some other is called for by the people and adopted by the Legislature. If the Legislature make mistakes they are easily corrected; if we make them the mischief is incalculable. Then let the people pass judgment upon this question, and we are bound to presume that the Legislature, coming as they will from the people, elected by single districts, will reflect their will.

I have ever been opposed to requiring all or any of the lower grades of offences being submitted to a grand jury. I think it useless and unnecessary. Organize by law proper tribunals to try such causes in the most summary way you please; make the proceedings as summary and cheap as practicable; burthen the people as little as possible, to dispose of that branch of your criminal jurisprudence. But when you come to the higher grade of offences, as I

have already suggested, those involving considerations of the least importance to the party charged—when his life is endangered, or may be the forfeit—when incarceration for life in the State's prison may be his punishment, if convicted—when he is to be rendered forever infamous—I ask that the grand jury may be interposed between him and the government.

I am opposed then, sir, to both extremes here proposed. I am unwilling, on the one hand, to tie the people of this state down to a continued adherence to the present cumbrous and unnecessarily expensive system; on the other, I am equally or still more opposed to placing beyond the people's power the means of creating or continuing some kind of grand jury system, if their exigencies, (as I believe they will,) should require it.

Any feasible and practical measure of reform upon this or any other subject that will tend to the better administration of the laws, the reduction of the burthens now imposed by way of taxes or otherwise upon the people, will meet my cordial approval and warmest support. But sir, in the language of the gentleman from Kalamazoo, [Mr. CLARK,] I am unwilling to "take this leap in the dark." And I ask other gentlemen to reflect that they are not only proposing a leap in the dark, but an irretrievable one. One that may visit upon the people of Michigan, consequences most disastrous. Then, sir, let not the mere desire of novelty and change induce us to forget our high obligations to the people, and while pursuing phantoms, forget the substance, and run the risk of entailing incalculable evils, instead of in securing by our action, results beneficial to our citizens, not only now, but for all coming time.

Mr. ———— I shall trespass but little upon the time of this Convention; and that merely to explain my views with regard to the vote that I shall give with reference to this institution.

An objection has been taken on the ground that the abolition of the grand jury would cause a difficulty in arresting fugitives from justice. I do not see, sir, what more difficulty will exist than at present; the same facilities will exist as now. The application for a requisition has after all to be subjected to the discretion of the Executive of the State, whether from the

finding of a grand jury or of a magistrate; and I apprehend that the Executive would always look at the reasonableness of the requisition and the weight of the testimony, and not blindly follow either the indictment of a grand jury or the certificate of a magistrate.

I do not think, for the determination of this question, we need to take for granted, that the magistrates are to have the whole power in their hands. I do not propose this; I propose to leave it open, so that the legislature may try the experiment; therefore, I hope that this will be left open for future action; if we cannot do without it, we can revert to it. I am opposed to prohibiting the legislature on this subject. I have no fears as to this experiment, therefore I wish that it should be left open.

Gentlemen say that the legislature will have neither the ability or the time to carry out the details of a system. Well, then, let them continue the present system; although I apprehend such arguments are only to hear oneself argue, rather than from a good foundation. If you insert a provision authorizing the Legislature to pass such a law if called for, it will soon be done. It is not a proper subject for this Convention to be engaged in; and that is the only reason why the details of a system have not been brought forward.

I shall vote for the bill as it now stands—say nothing about the system in any respect—because I am convinced that the grand jury system is bad with regard to the expense, because it fails to attain its ends, and because it has become a cumbersome part of the machinery of the law.

If criminals had to be indicted by a grand jury previous to being arrested, nine out of ten criminals would escape; they would hardly ever be arrested. All the arresting and binding over is done by a magistrate. It expedites the action. One of the defects of the present system is that the indictments are all prepared before hand. It seems to lead directly to this. The gentleman from Kalamazoo, by his own admission, prepared his indictments before the grand jury sat, before he knew whether a bill would be found or not. What was the use? Crime was committed—the criminals were arrested—the witnesses known—the indictments drawn up except being submitted to the grand jury—

the grand jury takes the advice of the law officers. Therefore, it is a useless expense. Shall we keep it because it has been a good institution once—keeping it for the good it has done, when we have no longer need for it?

We are sorry to part with an old acquaintance, even if it be a troublesome one; but it is not only useless, but its pretended benefits are by no means commensurate with the expense. Are we guarding our rights by retaining it? Our rights are not in its keeping. Our rights are only in danger when a secret inquisition sets and we have no opportunity of knowing by whom we are charged. Such has not always been its character. It has been in former times a shield and bulwark to the citizens. In those days it was a good institution, but it has answered its purpose. Intelligence has rendered it useless.

In Scotland they have never had it; and yet it is the most intelligent and well governed part of Great Britain. Crime is repressed and rights are protected as well as in any other part of the civilized world; and yet they never had the institution among them. Is it an experiment? Are we all stepping upon untried ground, when in one of the most civilized countries in the world another course has been adopted and proved successful? There the criminals are arrested by the magistrate, the testimony reduced to writing, then sent to the proper law officer, and acted upon; and where is crime more surely detected or justice more certain in its operation?

What or where is the difference? What should make us adopt this machinery of the grand jury? The magistrates are equally intelligent, equally virtuous, equally tenacious of our rights. No more injurious consequences can be apprehended than can be found at present, as regards the safety of the citizen.

Everything reverts back to the argument that it is old and venerable. Sir, it is venerable, but it is a venerable ruin.

I am willing to be rid of it; we can dispense with it. We can preserve our rights equally effectually—crime can be repressed with as much certainty—the rights of the people guarded with as much diligence. Therefore, we can dispense with it.

But I do not wish to put a bar against the restoration of the institution by the

people, if they see fit. I shall vote so that they can keep, repeal, or insert a new system, if they choose so to do.

Mr. McCLELLAND—I think it the best plan to leave it to the Legislature, as I am confident that the system, if retained, ought to be modified.

The gentlemen from Kalamazoo [Mr. CLARK] mistook me on one point. I said when a case was thoroughly investigated by a justice of the peace, that I saw no necessity for the case going before a grand jury, for the reason that the case is defended before a magistrate; while before a grand jury the person accused has no defence—it is an *ex parte* examination. As, however, my motives in offering the amendment have not been appreciated, I withdraw it.

Mr. CORNELL—We have heard very conflicting opinions upon this subject. Some are for entire abolition, some for its retention by a provision in the constitution, while others have wished the matter left to the Legislature. I am in favor of the latter measure, and hope that it will be adopted. I do not doubt that the institution is bad, and has been so for some time. The defenders of the institution admit its defects, but if the institution is abolished they want a substitute. This, sir, is not the proper place to furnish a substitute. At present the working of the system requires a great deal of machinery; but, sir, I would ask, was it made by men or angels? By men; and cannot men make a more simple system? Something can be done, sir; a system can be made and adopted as effectual and more simple.

I am willing to leave the matter to the Legislature, as being the most proper place. If placed in the constitution now, in a few years the people might call for a change. We should leave it open, that it may be changed to the extent that the people demand.

Mr. WALKER—The last gentleman said that the institution is worthless; but because there is a difference of opinion he is willing to leave it to the Legislature. If he is willing to do so upon all questions upon which there may be a difference of opinion, there will be but little left for us to do here. Where is the question, in fact, that has arisen, that would not have com-

pelled him to leave it to the Legislature to do as they choose.

In many of the provisions introduced by the chairman of the legislative department committee, there were differences in relation to many points. Still, having this opinion, he permits provisions to be placed in the constitution, binding upon the legislature; while in this case, he states that the institution is worthless, but is willing, in consideration of the difference of opinion, to permit the evil to remain.

Mr. CORNELL—I did not say so. I said this was not the place to go into detail.

Mr. WALKER—As I before remarked, I have heard no good reason for the continuance of this system. It all seems to rest in the name of grand jury; if they are called grand jurors, it answers perfectly well for the citizen, and makes a sufficient plea for its defence. I would like to know why a man will become a better judge because he is chosen by the assessors of a township; or how a grand jury selected from one hundred men, by being taken out of a box by chance, will be more likely to do justice than a man deliberately selected for the qualifications which he is known to possess. We have discarded the appointing power; we shall refuse to leave it even in the hands of the Executive of the State, as far as practicable; yet you still wish to retain the appointing power in the hands of the assessors, taken by chance, but from a selected number; and by this means obtain a tribunal that cannot err. There is something very singular in the workings of the grand jury system; it still partakes of chance after they are selected. If twenty-three men are sworn, twelve are required to find a bill; if but twelve, the same number must still agree; so that one person disagreeing, will compel the prisoner to be released; if sixteen are sworn, then it requires two-thirds to find a bill. It seems a relic of former times, not adapted to our wants; and for one I should cheerfully wish it to be rescinded.

Mr. WHITE—The subject under discussion is, with me, Mr. President, one of power; and the question as to the exercise of that power of our person or body over that of another, resolves itself in this one proposition: whether we shall or shall not insert in the Bill of Rights a provision de-

claring that persons shall not be presented for trial until action has been taken by a tribunal which we call a grand jury. That is the question. Whether we shall embody in this article this right, or leave it in the keeping of any justice of the peace. The proposition is to strike from your article a salutary provision, and substitute nothing for it. I am called to surrender this right. Now sir, I am willing that it should be pruned, the expenses retrenched; but I am unwilling to part with the right which has been guaranteed to us for ages; while I am not willing to throw this right upon the caprice of a justice of the peace. I am willing to modify the grand jury system so as to meet the objections which gentlemen have raised to its operations in this State. I am in favor of retaining the power with which grand juries are invested, but I am not willing to leave my right to the mercy of incompetent magistrates; and I think that we should all be unwilling that a man should be tried for a heinous offence, without ascertaining whether there is probable cause or not. The proposition is monstrous; and those who propose this innovation, should first point out the substitute for this venerable institution; it becomes their duty to do so, and not leave it to future legislation.

The gentleman from Washtenaw [Mr. SKINNER] tells us that in the State of Connecticut, for ordinary crimes, no grand juries are called; that in each town three grand jurors are elected, whose business it is to see that all offenders are brought to justice. This proposition, if offered by that gentleman, would commend itself to my mind over all other propositions that I have listened to on this subject; and the gentleman from Calhoun says that he never saw but one grand jury in that State. Does it follow from this argument that it is not a good institution. I should rather infer that it was a most admirable system; that the morals of the people under its operation, had become so pure that they could dispense with it. Until I can find a substitute, I shall be compelled to vote against the abolition of the grand jury.

Mr. WILLIAMS was conscious that the Convention was fatigued and would detain them but a few moments. With due respect to the gentlemen who had in-

veighed against the grand jury, he must say that they had treated the subject unfairly. One would suppose that it was an institution organized and used for none but petty and malicious purposes. What are the facts? What duties are enjoined upon it? Let us hear the charge of the court: "You, as grand jurors of this inquest, for the body of this county of _____, do solemnly swear, that you will diligently inquire, and true presentment make of all such matters and things as shall be given you in charge; your own counsel, and the counsel of the people, and of your fellows, you shall keep secret; you shall present no person for envy, hatred or malice, neither shall you leave any person unpresented for love, fear, favor, affection, or hope of reward; but you shall present things truly, as they come to your knowledge, according to the best of your understanding, so help you God." Such are the duties and functions of a grand jury, as defined by our laws—an institution, according to Judge Storey, which affords "a great security to the citizens against vindictive prosecutions, either by the government or political partizans, or by private enemies." Such our laws define it. So learned jurists describe it. It is designed and intended, and under a sound administration, must be only efficient for good.

Its opponents argue only from the abuses, most of them imaginary, practiced under its forms. What invention of man, what gift of Providence, does not contain evil mingled with good? The reverend gentleman from Calhoun [Mr. J. D. PIERCE] has been particularly nervous in regard to its abuses, and he was well reminded by the gentleman from Kalamazoo [Mr. S. CLARK] of the abuses practiced under the garb of religion, of which he is a minister. Infidels have always been denounced because they argued only from its abuses. In times past its ministers have been tools and slaves, bigots, hypocrites, tyrants and demagogues. Millions of defenceless people have been butchered in wars engendered by it. Its instruments have been inquisitions and tortures. Yet these abuses are not allowed as of any weight against its value or its truth. The whole administration of the law has always been full of abuses; all kinds of government have been perverted and abused. The inventions of

man can all be abused. Steam destroys as well as multiplies the result of labor. The rain that descends to fertilize your lands and cause the earth to yield her abundance, may be accompanied by a shaft that consumes your dwelling; or a tornado that sweeps your fields with desolation!

We are a wise body of men, and each of us fancies that he can make a perfect constitution. We all of us brought constitutions here in our heads, except the gentleman from Calhoun, [Mr. CRARY,] who, according to one of the newspaper scribblers, carries one in his pocket. We are all imbued more or less with the feeling described in four lines of doggerel, which I have somewhere picked up:—

"Of old things, all are over old;
Of new things, none are new enough;
We'll show that we can help to make
A world of better stuff."

The men who destroy the grand jury do not even offer to make "a world of better stuff," or of any stuff at all. They destroy, but do not renovate. They proceed as one of my neighbors once did to excavate his whole cellar, under a building already erected, before he proposed to build up the walls to sustain it.

The proposition to abolish the grand jury by an English judge, if he understood the quotation of the gentlemen from Calhoun, [Mr. J. D. PIERCE,] extended to the metropolitan police district. He would remind the gentleman that that district was protected by an organized police, possessed of terrible energies, using secrecy to ten times the extent that a grand jury ever does, and under whose protection life, liberty and property are safe. In our new States we have no such protection.

During all the discussion relative to this subject, not a single hint has been given as to any adequate substitute which shall protect society against three classes of offences. No method has been proposed for the protection of the defenceless, the son, ward, wife or victim of a person who could hold them in terror, if confronted in open court. No tribunal has been proposed adequate to ferret out a conspiracy, knot by knot, and thread by thread. None has been proposed so adequate to investigate the crimes of a fugitive from justice.

In 1845 the Executive of this State was furnished by the authorities of Illinois with

a long catalogue of villains, bound together in one conspiracy, and extending throughout the North-western States, and into Canada. They were criminals of every grade, and were ready for the commission of every crime, and bound to protect each other by any and all means. The gentleman from St. Clair, [Mr. CLARK,] has informed me that one of their ramifications extended into his neighborhood. It purported to be a moral society; but when ferreted out, it was found that its members were sworn to protect each other, to procure places even in the jury box, to perjure themselves, or suborn perjurers, and by every desperate deed, break down the barriers of society.

The Executive furnished the list to the several prosecuting attorneys, and by the long, quiet and thorough investigations of grand juries, the offenders were brought to justice, and the conspiracy broken up. Of what use could a weak tribunal, open as day, have been in the investigation of such crimes? The important disclosures, so vital to our citizens, were made before a grand jury of another State. It seems that this institution, so fraught with evil, even when existing in another State, and exercising its functions beyond our jurisdiction, has exercised a beneficial influence over the peace and welfare of our own people, and been productive to us of valuable benefits; whereas the first arrest and open trial of a single criminal would have given instantaneous notice to all the world, and enabled the organized gang to baffle all pursuit, and evade all punishment. While adverting to this fact, that the grand jury of Illinois had aided to protect life, liberty and property in our own State, he would remark that for some cause or other, all the conventions which have recently made new constitutions, have held sacred the grand jury. You will find that it is perpetuated in all the new constitutions of Iowa, Wisconsin, California, Illinois and New York—notwithstanding the assumption that it is hostile to the genius of our institutions.

Mr. J. D. PIERCE offered the following substitute:

"The present grand jury is hereby abolished."

Mr. STOREY moved the previous question; when,

Mr. BAGG moved to adjourn; which was lost.

The previous question was then demanded, but the vote seconding it was reconsidered; and the motion withdrawn.

The question recurring on the substitute offered by Mr. J. D. PIERCE, the same was lost—yeas 29; nays 52.

Mr. WILLIAMS proposed the following amendment to the one offered by Mr. S. CLARK, and the same was accepted by the mover:

Strike out "a criminal offence," and insert "any criminal offence punishable by imprisonment in the State prison."

Mr. WILLIAMS proposed further to amend, by adding to the amendment proposed by Mr. CLARK, "Grand juries may be so modified as not to consist of more than thirteen men;" which did not prevail.

The amendment proposed by Mr. CLARK was then lost, as follows:

YEAS—Messrs. Backus, Bagg, J. Clark, S. Clark, Desnoyers, Hanscom, Moore, Raynole, Van Valkenburgh, Wells, White, Williams, Witherell, President—14.

NAYS—Messrs. W. Adams, Alvord, Anderson, Arzeno, Barnard, H. Bartow, J. Bartow, Beardsley, Beeson, Britain, Alvarado Brown, Ammon Brown, Asahel Brown, Burns, Bush, Carr, Chapel, Choate, Church, Comstock, Conner, Cornell, Crarry, Daniels, Eastman, Fralick, Gale, Gardiner, Gibson, Graham, Green, Hart, Harvey, Hascall, Hathaway, Hixon, Kingsley, Kinne, Leach, Lovell, Marvin, McClelland, McLeod, Morrison, Mosher, Mowry, Newberry, O'Brien, Orr, J. D. Pierce, N. Pierce, Redfield, Roberts, Robertson, E. S. Robinson, Rix Robinson, Skinner, Soule, Storey, Sturgis, Sullivan, Sutherland, Tiffany, Town, Wait, Walker, Warden, Webster, Whittemore—69.

Mr. ROBERTS moved that the further consideration of the Article entitled "Bill of Rights," be postponed until all other articles to be acted upon by this Convention, have been considered and disposed of, except the schedule; which,

On motion of Mr. CHURCH, was laid on the table.

The Convention then adjourned.

MONDAY, (19th day,) June 24.

The President called the Convention to order at the usual hour.

Prayer by the Rev. Mr. SANFORD.

PEITITIONS.

By Mr. STOREY: of Geo. F. Gardner and 150 others, citizens of Jackson county, praying that the elective franchise may be extended to every male citizen above the age of 21 years; and also, that the word "white" may be excluded from the constitution, whenever and wheresoever the same may occur to the detriment of the colored citizens of the State of Michigan.

REPORTS.

Mr. COMSTOCK, from a minority of the committee on banking and other incorporations, except municipal, submitted the following report and article:

Report.

The undersigned, minority of the committee to whom was referred the subject of corporations, other than municipal, having had the same under consideration, beg leave to report, that on so much of the subject referred as related to banks, the committee could not agree.

In order to secure to the people of this State, under existing circumstances, a sufficiently safe, ready and ample circulating medium to meet the wants of the commercial and business portion of community, a system of banking, founded on a specie paying basis, with ample security for the redemption in specie of all bills put in circulation as money, appears to the undersigned to be absolutely necessary.

And when we take a view of the peninsular State, surrounded as it nearly is by navigable waters, which are continuous to other States, with a coast of more than eighteen hundred miles in extent, lined with fisheries inexhaustible, a fertility of soil unsurpassed in the variety and extent of its productions; bearing on its surface extensive forests of valuable timber, and enriched beneath by natural resources of unlimited mineral wealth, with its mines of iron and copper, its beds of coal and plaster, and salt springs, the conclusion is irresistible that a vast trade must grow up, which will demand an increased corresponding circulating medium.

It is, therefore, the part of wisdom and sound policy, that a system of banking be established that shall induce the aggrega-

tion and employment of foreign capital in our State, and shut out from circulation bills of less reliable institutions from other States.

It is the opinion of the committee, that by providing for such a system of banking as we have recommended, that it will be, not only a salutary aid in carrying on the already large and increasing commerce and trade within the State, but that it will prove highly advantageous to every branch of industry, and satisfactory to the people at large.

The committee, therefore, beg leave to report the following Article:

ARTICLE —.

Corporations, other than Municipal.

Sec. 1. Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes. All general laws, and special acts passed pursuant to this section, may be altered from time to time, or repealed.

Sec. 2. The term "corporations," as used in this article, shall be construed to include all associations and joint stock companies having any of the powers or privileges of corporations, not possessed by individuals or partnerships. And all corporations shall have the right to sue, and shall be subject to be sued, in all courts, in like cases as natural persons.

Sec. 3. The Legislature shall have no power to pass any act granting any special charter for banking purposes; but corporations or associations may be formed for such purposes, under general laws, by a vote of two-thirds of all the members elected to both branches thereof.

Sec. 4. The Legislature shall not pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payments by any person, association or corporation issuing bank notes, of any description.

Sec. 5. The Legislature shall provide by law for the registry of all bills or notes issued or put in circulation as money, and shall require ample security for the redemption of the same in specie; such security to be in stocks, (bonds or evidence of debt issued by the United States or of individual States, or both,) which shall be deposited with the State Treasurer, and be at least, when offered, equal in value to

the amount of bills or notes registered and issued for circulation.

Sec. 6. The stockholders in every corporation and joint stock association for banking purposes, issuing bank notes or any kind of paper credits to circulate as money, shall be individually responsible to the amount of their respective share or shares of stock in any such corporation or association, for all its issues, debts and liabilities.

Sec. 7. All corporations and joint stock associations created by the Legislature, under and by virtue of this article, shall pay to the State Treasurer for the use of the State, at least one per centum per annum on the capital stock paid in, as a tax; and no other tax shall be assessed or collected against them.

Sec. 8. In case of the insolvency of any bank or banking association, the bill holders thereof shall be entitled to preference in payment, over all other creditors of said bank or association.

Respectfully submitted.

A. J. COMSTOCK,

J. R. WHITE,

Minority of Com.

The article and report were referred to the committee of the whole and ordered printed.

RESOLUTIONS.

On motion of Mr. WILLIAMS,

The use of the hall for to-morrow evening was allowed to Messrs. CLARK and SMITH for the purpose of delivering a lecture on scientific subjects.

UNFINISHED BUSINESS.

The Bill of Rights being under consideration,

Mr. BAGG offered the following, as an additional section to the article:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger."

Mr. CRARY raised a point of order, that the amendment proposed, embraced matter that had been once disposed of by the Convention.

The PRESIDENT decided the amendment in order.

Mr. BAGG said—Mr. President, I

should not have obtruded myself upon the Convention at this time, upon the subject under consideration, had not the county of Wayne, which in part I have the honor to represent, from her peculiar local and relative position, a right to be heard upon this floor. Although when I was sent from the city of Detroit as a delegate to this Convention, little was expected of me from my constituents in regard to the judiciary or grand jury system, and therefore, under little or no responsibility, she having sent for that purpose the ex-judges of her courts, and Springwells her able advocate of the law; and as much was expected of the Chief Justice of the State in regard to these legal matters, who would not, I am sure, consider it a dishonor to hail directly from the city of Detroit, it being the city of his nativity—but as we have been disappointed in not hearing from either of these gentlemen, upon the main subject, of this, in my judgment, uncalled for innovation, except from yourself, sir, I feel compelled, by the irresistible force of circumstances, although layman as I am, briefly to give some of the reasons why I shall not vote for abolishing the present grand jury system, and answer some of the assertions of those who occupy the negative of this question. And here let me say, that although I have listened with the most careful attention to all that has been said, in exhortations and declamations by the exponents of this measure, I have found but little to feed or stimulate my argumentative powers to attempt to rebut; but on the contrary, with two or three exceptions, all, from first to last, who have favored us upon the negative, have only contributed to inundate us with a mass of incongruities, based upon their impressions, experience and imagination, instead of argument. Sir, had Ruth, of old, gleaning in the fields of Boaz for corn for her hungry relatives, met with no better success for food, to satisfy the cravings of nature, than have the friends of this amendment for arguments, from their opponents, she would have retired at once in disgust and discouragement and never again have repeated her labors. Therefore, sir, should I utterly and completely fail, at this time, from indisposition, want of memory, capacity, or concentration, to show up the absurdities, incongruities and inconsistencies

dragged into this debate, I shall have at least one sweet consolation left, to wit: that of being on a par with every gentleman who has preceded me, in opposition, in debate upon this subject. Before entering upon the subject in controversy, let me thank the gentleman from Kalamazoo, [Mr. CLARK,] and the gentleman from Oakland, [Mr. HANSCOM,] on behalf of myself and my constituents, for the part they have taken in this debate; for their unwearied exertions against this uncalled for innovation. The gentleman from Kalamazoo, who opened the debate, laid down his premises so methodically logical, and so clearly and orderly brought forth his arguments to sustain them, that those who run might read, understand and appreciate; and in my humble estimation nothing could prevent a conviction of the truth of his proposition, but an obstructed vision, through the jaundiced eye of prejudice, or the more perfect obstruction of self interest. I know not which most to admire and commend, the matter or the manner in which it was delivered—the latter being sufficiently slow, calm and deliberative, to be understood. The gentleman from Oakland, [Mr. HANSCOM,] who spoke near the close of the debate, (and here let me say towards whom, at this time, I have no very good feeling,) made one of the very best speeches that has been made on this floor on this or any other subject in this Convention. Sir, the gentleman stole my speech, and completely took the wind out of my sails, and forced me to lay over.

This sir, is the cause of my ill feeling, personally, towards him at this time; and so sure as it is again repeated, and I can catch him at the Isle of Mackinac, I will surely challenge him or obtain an indictment against him before the substituted court of that Isle, to show probable cause why the modified Lynch code put in use by the gentleman of Mackinac, while prosecuting attorney of that isolated upper region, should not be enforced against him. Although there is this unpleasant feeling between us, I here tender him my thanks and that of my constituents. The masterly manner in which he proceeded to analyze the whole bundle of incongruities thrown in upon this subject, and scattered to the four winds of heaven, cannot be beat on this floor. And now, sir, I propose

to simply touch upon the assertions, experience, and sometimes shade of argument, of the various gentlemen who have spoken in opposition, somewhat, but not altogether inversely, in the order in which they addressed the committee and the Convention. To dispose of a brace of these gentlemen, in a summary manner, so as not to tire the patience of the Convention, and at the same time, in proportion to their relative and antagonizing merits, with regard to each other on this subject, I propose to examine the reverend and venerated gentleman from Calhoun, [Mr. PIERCE,] with the legal gentleman from Genesee, [Mr. BARTOW.] While the former tells us that the grand jury system is an inquisition allied to that of old Spain, and a relic of monarchy, handed down to us from Great Britain, and is directly in effect contrary to the spirit and genius of our democratic institutions, and endeavors to excite the ultra democracy on this floor, by an appeal to their passions and prejudices, with a tact peculiar to himself, (and his main general weapon,) and thereby carry the question by storm, by a kind of artificial tornado, instead of convincing the judgment; the latter tells us that in Scotland they have never had grand juries; that that aristocratic and law loving people get along swimmingly without them; and that they are the most free from crime of any other nation under heaven. While the former gentleman tells us that even in Great Britain they are about to abolish the grand jury system, and reads a law novel or law magazine published in London, to prove that one man during the last century has had sufficient imagination to propose the innovation there, the latter tells us that here it cannot constitutionally be abolished, and reads in his place the constitution of the United States to prove it. These gentlemen being thus antagonized in a measure, and not knowing whether the gentleman from Genesee has a "Mo" to his name, and his not condescending to tell us whether Great Britain belonged to Scotland or the "rest of mankind," and not being attracted to any argument in particular from either gentleman, I leave them thus antagonized, as the Paddy did the Kilkenny cats—to swallow up each other at their leisure.

The junior member from Macomb, [Mr.

ROBERTSON,] tells us that public sentiment in Macomb county calls loudly for the abolition of the grand jury system; and to prove it, points us to a meeting in one single school district in that county, and of their expression to this Convention by petition. Now, sir, it is very easy to get up meetings on any subject in any county in the State; and whether this meeting of old democratic Macomb originated from this Convention, or was the result of spontaneous combustion at home, is immaterial at this time, as it is but one item in one single school district in one town, in one county of the State—but one ingredient in the composition of that omnipotent public sentiment of the whole, spoken of by the gentleman. This meeting and their petition, coupled with the expression of one solitary individual in the county of Wayne, who was much displeased to find himself thwarted in attempting to obtain an indictment against a certain individual, from vindictive feelings of ill will, by the grand jury of Wayne, is the only expression I have ever heard against the grand jury system, except upon this floor.

But, says the gentleman, "a single justice of the peace would be cheaper—much less expensive, and make a good substitute for the grand jury." Now, sir, so far as the county of Wayne is concerned, and has been for the last five years, the reverse is true. Says the gentleman, "almost every one that is held to bail, or recognized to appear before the grand jury, by a justice of the peace, is sure to become indicted, and therefore you might as well substitute a justice of the peace, and let them do the whole business at once." In the county of Wayne, during the last five years, not one-third of all those who are recognized to appear, by justices of the peace, are ever indicted. This, coupled with the same statistics of Oakland, stated by the gentleman from Oakland, [Mr. HANSCOM,] would prove the gentleman in this matter utterly mistaken; for Oakland, and Wayne county combined, or taken together in the aggregate, have sent, since 1839, more criminals to the Penitentiary than the whole State besides, put together. Not one-third, then, of all those who are recognized to appear are ever indicted, and in the county of Wayne, those that are indicted are almost certain to be convicted. For years

it has been proverbial with us, that an indictment before a grand jury would be tantamount to a conviction, which speaks loudly, not only in favor of the grand jury, but our Prosecuting Attorneys and Judges. Sir, two-thirds of all those who are held by justices of the peace to appear before the grand jury for probable cause, are never indicted, but remain on file in your clerk's offices, as so many monuments of cupidity and want of knowledge, only to be hauled over the next three months by the justice and constable interested, to base a bill of fees, before the Auditors, which amounts to from fifty to one hundred and fifty dollars per quarter, each. I appeal sir, for the correctness of this statement, to yourself, sir, Judge Witherell, ex-auditor Fralick, and the present auditor, Brown, now in his seat upon this floor. I find, also, sir, from statistics of our State Prison, published recently in the Jackson Citizen, that the county of Wayne, owing to the city of Detroit, her great commercial centre, being situated on the range of the great Lakes, its contiguity to Canada, and other causes, has sent, since 1839, two hundred and forty-five convicts; while the whole State besides has sent but two hundred and fifty-three. I also find that of this last number, Livingston has sent but one, while Cass has sent eight, and Macomb but seven convicts in that time. These statistics of Macomb, taken in connection with the duration of time that the gentleman has been admitted to the bar, (four years) together with the great number of convicts sent to the Penitentiary since 1839, not quite two-thirds of a convict per year, verily, verily shows that the gentleman's experience in criminal matters and grand jury systems, must be very extensive indeed, and have its proportional weight upon this Convention.

The senior member of the bar from Macomb, [Mr. WALKER,] when he arose to speak, so soon run into collision with my friend from Monroe, [Mr. McCLELLAND,] who could not screw himself up to so high a pitch of boldness as the gentleman, as to abolish the grand jury, for fear of endangering the constitution before the people; and who was not disposed to be lectured on that account from Macomb, seemed to forget his argument in this collision, and as there is an adjourned veracity yet re-

maining between them, and as it was well known that the gentleman had a fit of fever and ague on that day, and as what he did advance showed him to be in the cold fit, out of benevolence, I leave him without further comment.

The gentleman from Ingham [Mr. BUSH] is in favor of abolishing the present grand jury system. If I mistake not, he tells us that, although since 1839 the county of Livingston has sent but one criminal to the penitentiary, their criminal courts have cost ten thousand dollars in that period. This looks at the first blush as though there was rottenness in Denmark somewhere, I confess; but does it argue against the grand jury system? In truth, without facts in detail, would it not go to show, as there was but one conviction, that the great amount of cost was owing to the great number returned by justices of the peace, who were proven before the grand jury innocent? If so, would it not be a direct argument against the substitution of a justice of the peace instead of the grand jury, as proposed by the opponents of the grand jury system; and a direct argument in favor of the latter?

The gentleman's main argument against the grand jury is its great expense. Have the gentlemen proposed anything cheaper, to say nothing of its efficiency? Sir, tribunals for justice, where crime on the one hand is to be considered, and innocence on the other protected, must necessarily cost something; although the other day the gentleman from St. Joseph showed conclusively from statistics which he exhibited, that grand juries throughout the State would cost but little more than three cents per head for every taxable inhabitant, about the price of one paper of tobacco of Mrs. Miller's best, and yet the great cost is here constantly harped upon. The expense of tribunals for justice is very much allied in nature with certain other necessary expenses for our existence. I have often remarked to my friends that it was a great pity that life was a forced state of existence, and that it was necessary for us to constantly eat and drink, and clothe ourselves against the assaults of the elements, or we should die. Were this not the case, we could all get rich. So, also, with tribunals of justice. So long as crimes are committed they must be ferreted out and punished, cost what they may.

The gentleman from Lenawee [Mr. TIFFANY] is also in this crusade against the grand jury. He, however, shows his prudence in leaving it to the Legislature, fearing, should we here abolish it, it might endanger the constitution itself, before the people themselves. Wise thought! I think, as I know something of judges and juries, and their relative action and duties with each other, I can enter into and appreciate his feelings on this subject. We know that in long contested civil and criminal cases, after a righteous judge has patiently superintended for days the gudgeons of law, and the testimony has been given to the jury, the case summed up by the counsel on either side, and the judge has pointedly charged them how to bring in their verdict, some juries, throwing themselves from self esteem upon their dignity, consequence and reserved rights, believing that in this country a jury stands above every other court under Heaven—that theirs being the peculiar duty to judge of the facts in the case, the immutable principles of truth, while that of the judge being merely to see that justice is judicially administered—have refused to bring in a verdict as directly or indirectly directed, which has contributed not a little to exasperate the feelings of the court; and by repeated acts of such independent insubordination, some judges have come to the determination that juries of all kinds are nothing but forces, and should be dispensed with. Thus the one horse or one man power has, from these repeated acts of aggression on their part, been growing, until many old and even righteous judges have come to the conclusion that they can do all the business in the most satisfactory manner themselves, without the assistance of these independent interlopers between the law and the facts. If this can be done, certainly it is much the cheapest, and can be accomplished much the quickest. At least it will remove the ill feelings arising from a difference in judgment; and judgment will of course be sooner dispensed, right or wrong; and as to certainty, it is all wise and convenient, for the judge would be sure to agree with himself, and declare his judgment with great unanimity and self complacency.

The gentleman from Cass, [Mr. SULLIVAN] in whose judgment on general sub-

jects I have the highest confidence, objects to the grand jury system because it is too secret, and at the same time too open; that it is secret in what it should not be, and open when it should be secret. Now, for the life of me, I cannot see the distinction he would here wish to inculcate. I have no other means, nor has the gentleman, to judge of the duties and action of a grand jury, but the oath they take before their duties commence, which the gentleman from St. Joseph read to the Convention on Saturday, in his place. By that oath they are bound to keep secret the counsel of their fellows, and that of the State or people, between whom and the accused they are bound to judge. They are sworn to diligently inquire and true presentment make of all such matters and things as shall be given them in charge. They are sworn to present no person for envy, hatred, malice, anger or revenge. Neither are they to leave any person unpresented through fear, favor, affection, or the hope of reward; but they are to present things truly, as they come to their knowledge, according their best understanding. By statute, any one held to answer for a criminal offence may object to the competency of a grand juror.

The grand jurors are returned from the body of the whole county, to the clerk's office by the assessors, under oath. By statute they are bound to present all persons they know to be guilty of crimes and misdemeanors. They are also to look into all nuisances; and attend to the interest of the school lands. Now sir, if the grand jury live up to their oaths, is there any wrong about it? Is there anything wrong about the oath? Did the gentleman from Cass wish to be understood to mean to say, that the great majority of the grand juries in this State disregard and forfeit their oaths? violate and expose the secrets of their fellow-jurors, or of the State? I presume not. What then does he mean? If he mean that in a court of inquiry for probable cause, which the gentleman acknowledges to be necessary in this State, the said court or jury should not be secret in its investigations, he is much mistaken; for until it be shown that crimes are all committed openly, in the light of day, it cannot be shown that the tribunal or inquiry should not be secret. All causes of

crime, and their remedies, stand in relation of cause and effect to each other. They are therefore inseparable in their nature; one must correspond with the other. Who does not know that nine-tenths of all the crimes committed in any state or country, are perpetrated in secret. Therefore, the inquiry for probable cause must be secret, which is the remedy. Does not, then, the gentleman see and know, from the very nature of the case, they must be secret? Why sir, for centuries long since, these things, these principles, have been universally known and understood, and long since passed into a proverb as old as the Jewish law itself, and become a maxim and an axiom, that they stand in relation to each other as cause and effect. It is based upon the general principle, that like causes produce like effects under the same circumstances, on the doctrine of modern Homœopathy, *similia similibus*, like to like. "An eye for an eye, and a tooth for a tooth," says the great law-giver; "meet a fool in proportion to his folly," &c., &c. These old sayings are founded in philosophy, are true to the letter, and have been inculcated and practiced upon for ages, in the administration of justice throughout the civilized world.

But, says the gentleman from Cass, the grand jury as now constituted, is too large; so much so, that there is not sufficient feeling of responsibility. Diminish the number, and you increase the responsibility of the jurors. If this be true, why does the gentleman stop at the number three, his favorite number, as a substitute, coupled with a prosecuting attorney? If you increase the responsibility in direct ratio to the diminution of numbers, why not diminish to one simple justice of the peace, instead of three, and unite with the junior member of the bar, in judgment, [Mr. ROBERTSON,] from Macomb. It would be exceedingly gratifying to have at least two of these gentlemen, opponents of the grand jury system, agree on one point in their substitute. It has ever been my judgment that the number might be safely diminished to perhaps thirteen, instead of the present number, twenty-three; but to abolish the whole system at this time, or any other, is unwise and imprudent, and will work manifestly injurious to all, the innocent and the guilty.

There was one argument which fell from the gentleman, which strikes me was ill-timed, and might have been avoided; I allude to the comparison instituted or made on this floor, between Jesus Christ, the Savior of the world, and the ultra democracy on this floor, who go for the abolition of the grand jury system. Thus endeavoring to show, by comparison, that as He was the Savior of the World, and came on earth to destroy systems, and thereby benefit mankind, these little Lilliputian saviors of the State, would destroy the grand jury, and correspondingly benefit the State. Now, although I am not so well versed in scripture as some, what little I have read, I understand quite differently. I have yet to learn in the New Testament, that the Redeemer showed large manifestations of destructiveness; but on the contrary, his whole life was characterized by mildness, meekness and humility. He says, "He came not even to judge, but to save;" much less I apprehend to destroy. True, he came to destroy the curses of sin, crime and iniquity, not the tribunals of justice—the tribunals or courts to ferret out crimes, misdemeanors and iniquities. No such thing. My St. Paul teaches no such thing as the great destructiveness of the Savior of the world; and these reformers, associated with the gentleman, are welcome to all they arrogate to themselves for the comparison.

And now, in regard to the gentleman from Washtenaw, [Mr. SKINNER.] He is, emphatically one of the noblest works of God—an honest man—and speaks without restraint from the abundance of the heart. He tells us that he is against all juries; that he cares nothing about public sentiment; that he is prepared to abolish the grand jury system at once, here, and not wait for the legislature to do it. We possess, says he, sufficient knowledge to know that the grand jury has no intrinsic merits, and therefore should be abolished at once, &c. I hardly know, sir, which to admire most, his honesty, frankness, or boldness, on this question; and as I knew him to be a lawyer, I waited with no little patience while listening to him, for a refreshing shower of argument, after the dearth we had endured from his colleagues on the same side, but waited in vain. But, notwithstanding this want of argument, he

cleared up one obscured point so clearly, that never was a hazy atmosphere by a clap of thunder rendered more so. I allude to the *reason* for the abolition of the grand jury at this time, which the other gentlemen, by their masked batteries, had entirely eluded. The gentleman says that the *great reason* why he wishes to abolish it is, that they, the ultra reformers, can institute district courts in every town in the State, and mean so to do. For this, sir, I am much obliged, as it gives us the key which unlocks this whole mystery.

Yes sir, the grand jury which has stood for ages as a monument of wisdom and intelligence, must go by the board, and for what? Simply, that although we are at the noon-day of the nineteenth century, in the full tide of progressive intelligence—yea, progressive democracy—with our steamboats crossing the Atlantic in ten days, and our electric telegraph binding the whole nation in one intellect, momentarily, to take our back track, retrograde, and go back to at least two hundred years of ignorance, to the days of the feudal system, and institute and create in every town, and for aught I know, in every sap bush, little *pie poudre* courts, or courts leet, where the pig and his master may go down to court together, and obtain a writ of error, and justice, from the nipple.

Sir, there absolutely seems to be a disposition in this body, by law, yes, by constitutional enactment, to analyze the civil, municipal and social communities and circles, and to reduce them to their elements, to reduce them to chaos, and that the first step is to prostrate the judiciary. Before we leave this body, I should not be surprised to see a supervisor of a town created, by constitutional enactment, lord high chancellor, and a justice of the peace a circuit judge, *ex officio*, and every constable high sheriff. I confess when I came here I was not prepared to see this acknowledged progressive intelligence taking that contrary direction, but await the result with composure.

And now, sir, I pay my respects to the gentleman from Mackinac, [Mr. McLEOD.] And here let me say at the onset, that when the gentleman commenced his speech, he brought to my mind the story told of a President of one of our eastern colleges. The professor had received from

a southern planter his son to educate. The planter told him to spare no pains, as the price of tuition was no consideration. He wished him to teach him above all other arts and sciences, rhetoric, logic and eloquence, and be sure and make him a good speaker. The professor accordingly, in addition to his public studies, daily trained him in private. One day, while the student was in the full tide of successful experiment, soaring aloft into the sublime, and then, like the swallow, dipping down into the ridiculous, the professor, looking on, and with a stamp of the foot, cried out, "stop sir! let me tell you something that will at all times be of service to you while speaking in public, in all places, on all subjects, and under any condition." The student gazed with wonder in anticipation. Said the professor, "when you open your mouth to speak, be sure you never open it so wide but that you can shut it again!" When the gentleman commenced and told us that the Isle of Mackinac was like what the Kentucky bully said of his State—"bounded on the north by the aurora borealis, on the east by the rising sun, on the south by illimitable space, and on the west by the day of judgment;" I confess, being somewhat of an impressible, I was caught up in the spirit of imagination of the speaker, and followed him aloft into the airy upper regions of fancy until I almost forgot earth. To be sure, I faintly remember some indistinct rumbling here below, and muttering about these seats, but only come to myself when the gentleman, in his lead, again landed me on the Isle of Mackinac, by telling us that he had been prosecuting attorney there for years, and that, in his judgment, the grand jury should be abolished. "For," says he, "at one time, owing to the penurious feelings of the clerk, judge and sheriff, they would not order or draw a grand jury, and I determined they should be tried, (some half dozen of culprits.) I modified the lynch code, put them through and sent the poor devils to the penitentiary." Therefore, the gentleman inferred from this operation at that island, that the grand jury was useless, as a justice of the peace and prosecuting attorney might form a good modified lynch substitute. I confess, when the gentleman had got thus far, I began to query with myself whether

Mackinac was even bounded on either side by the day of judgment, or at least, by the day of *good* judgment.

We, however, are indebted to the gentleman from Mackinac, and to no other man of the opposition, for the acknowledgment that it is necessary for some court or tribunal to inquire into the condition of the accused, whether there be probable cause, before he is put before the traverse jury upon his defence; and here the gentleman, with his colleagues, seem to occupy rather, to me, an inconsistent and awkward position. I think the whole of them, without an exception, for I would not misstate any man on this floor, voted in the Bill of Rights for a section guaranteeing in all civil cases, where nothing but dollars and cents were concerned, a common law jury; but when they come to the grand jury, where crime and innocence are concerned—crime, on the one hand, ferreted out, and innocence, on the other, protected—they are all thrown into spasms for fear of the expense, harp about *ex parte* tribunals, relics of English nobility, inquisitions, and what not, and the great secrecy attendant upon the grand jury.

But, says the gentleman, the grand jury is notoriously known to be one of the greatest engines of destruction to character known to the country—a kind of patent machine for blasting and blackening the character of any man, in the most adroit, summary and severe manner. Why, said he, “so notoriously is this the case at Mackinac, that a certain resident politician, who had standing in his way an honorable competitor, and wishing to remove him without the sphere of his ambition, came to me while I was prosecuting attorney, after he had invented and matured his diabolical plan of destruction, with black malice in his heart, and unbosomed himself and wished me to get him simply indicted, and let it hang over him, as the most effectual way to dispose of him.” Who were to be the witnesses, the gentleman did not inform us. But mark again: when this political friend had concocted his accursed plan, and was ready to carry it into execution, who was the very first man he dared to divulge to, and associate with himself in the damnable deed!! Was it not a prosecuting attorney? What other man on earth dare he unbosom him-

self to on so black and disgraceful a subject? And yet this same officer, a prosecuting attorney, is the very man proposed by the gentleman and his colleagues, united with, oftentimes, an impressible *linsey woolsey* justice of the peace, as a substitute for the grand jury system now in existence!! The gentleman says he refused this time, and, of course, did not modify the lynch code! How fortunate for the cause of humanity, and the honorable competitor sought to be destroyed, that the office of prosecuting attorney was filled at that time by a man so conscientious! so virtuous!! and so much above suspicion!!! Why, Cæsar’s wife would at once sink into insignificance in comparison with the gentleman on the score of integrity and suspicion. But, from the modified lynch code, while prosecuting attorney, added to the propensity of some of the politicians of that isle, from the gentleman’s own showing, to rid themselves of their political competitors, that with such a substitute as proposed for a grand jury, although bounded on one side by the day of judgment, yet justice in that island might in vain loiter on a line drawn parallel with eternity, before it would ever overtake its object.

Thanking the Convention for the patience with which they have listened to what I have had to say, I have done.

Mr. ALVORD—My colleague and professional brother, says he has received several letters from his constituents, in reference to this question. As he has not enlightened us, I would ask from whom he received those letters? He [Mr. A.] did not believe that any of the delegates from Wayne were instructed, or could tell what was the public sentiment of Wayne county on the subject. It had not been much agitated there. For any thing he knew, a majority might be in favor of abolishing the grand jury system, or they might not. Not knowing their views or wishes, he felt called upon to act according to his own judgment. He had been of the opinion that the grand jury system was a useless, cumbersome and expensive system. That some system might be adopted less cumbersome; that the ends of justice might be met by some other system better adapted to the wants of the community. Not knowing what the wishes of his constituents or the wish-

es of the people of the State were, he was disposed to leave it entirely open for the action of the legislature.

Mr. A. said the gentleman has endeavored to manufacture opinion for Wayne county. He is the only person who has received any communication on the subject from Wayne; and he has communicated with none other of his colleagues. They do not know from whom he has received the letters. He has got the light, and leaves us to go it blind. He [Mr. A.] protested against that course. If the gentleman has got instructions, and is in possession of the wishes of his constituents, he ought to show them.

Mr. A. concluded by offering an amendment: "and the institution of the grand jury is hereby abolished."

Mr. McLEOD remarked that he had listened with uncommon satisfaction to the remarks of the gentleman from Wayne, [Mr. BAGG.] He [Mr. McLEOD] supposed that the effect produced on him by the *miscellaneous* harangue of Mr. BAGG, was different from the effect produced on the other delegates; for he was free to confess that there was enough of the old Highland blood coursing in his veins, to make it agreeable to him to hear the shrill squeaking of the *Bagg*-pipes. He [Mr. McLEOD] had not risen to make a serious reply to the extravagances of his friend over the way; for, to tell the truth, the most of it was as unintelligible as a little treatise which he had once read, and which he believed was entitled "Bagg on the Magnetism of Bullfrogs." His only object in rising was, to assure the delegate that he had entirely convinced him that the most appropriate receptacle for worthless miscellanies was neither more nor less than an *old bag*.

Mr. MOORE was desirous of coming to a final conclusion on the subject. He had supposed a conclusion had been come to on Saturday. He was sorry to see it opened again; it might be amusing, but it would cost too much.

Mr. N. PIERCE had become more and more convinced by the arguments of gentlemen, that the grand jury should be abolished. The best evidence he had, was that those who advocated it would reduce it one-half. It was universally allowed to be a bad principle; tedious, and not pro-

ductive of good. It appeared to him there was no reason rendered for sustaining it. But he supposed the Convention had come to the conclusion not to abolish it, and he did not know but that was the best. Every person was in favor of altering it; which showed they had lost confidence in it. But he had expected the question was settled, as he believed every view of it had been illustrated.

Mr. BAGG (by Mr. ALVORD's consent) withdrew his proposed amendment.

Mr. BEARDSLEY offered the following amendment to section 10:

Strike out all after the word "favor," in the 4th line of said section, and in lieu thereof insert as follows, viz: "To be aided by counsel in his defence, who shall have the right to close the argument to the jury, when one may be empannelled."

Mr. B. said he offered the amendment for the purpose of carrying out the humane doctrine of the law; that a person shall, under all circumstances, have the advantage of relieving himself from accusation which shall bring infamy or disgrace upon him, or deprive him of life or liberty. Prejudices always arise against a man accused of crime, in the community. We observe in society every day, that a mere slander is received with avidity; that it is increased little by little, till the individual is prostrated in the opinion of those who would have defended him, if they had known the circumstances. We know when an outrage is committed in society, prejudice takes hold of the public mind; people do not stop to consider whether the person incarcerated is the guilty one or not. It is taken for granted by the public that he is guilty. The jury is a part of that public, who are appointed to try him.

The object in offering the amendment was for the purpose of destroying that influence that argument has on a prejudiced jury. The counsel for the government has the reply. A prejudiced jury requires very little argument to support their prejudices. This prejudice may be corrected by fair and honest argument for the accused; but the counsel for the government has the reply; and by sophistical argument he may renew those prejudices. The object is to give the prisoner the benefit of the argument of the counsel. It is a principle engrafted in the law, that it is better

to acquit ten guilty men, than convict one innocent person. History tells us, it is not an uncommon thing for persons to be convicted of crimes they never committed. If we engraft this in the constitution, some guilty person may escape; but it would be better that some should escape, than that one should suffer unjustly from the opposite rule. It may be said that a person accused of crime has equal advantages with persons in civil causes decided by a jury. But I say, till all prejudice is removed, he will not stand on the same footing as in civil cases.

Mr. WITHERELL remarked that he had some experience in matters of this kind. When in the legislature, he had introduced a provision to modify the practice on the subject.

Mr. W. explained the detail of proceedings in criminal cases, and expressed his opinion that if the amendment were adopted, and it should become the practice in our courts, persons guilty of crime would go unwhipped of justice. In cases where a large number of witnesses have been examined, it would operate almost to a certainty in the acquittal of the accused. The defendant's counsel would be able to mystify the evidence so as to excite doubts in the minds of the jury. The duty of counsel for the prosecution is not to proceed in a passionate and persecuting manner, but with coolness and candor. The court, by the rules of common law, is counsel for the prisoner.

Mr. W. referred to the practice in the criminal courts in former times. Those had been greatly modified in favor of the accused. We have gone still further, and he did not see how we could go further than we have done. We are all alike concerned to see public justice administered, and we should not allow our sympathies to go so far as to provide the means of escape for the guilty. The practice we have had justifies the belief that the present mode is sufficient for the purposes of justice, and that it would be dangerous to introduce in the constitution the principle embraced in the amendment proposed.

Mr. HANSCOM said the experience of the gentleman last up, [Mr. WITHERELL,] gave his opinions great weight; but his practice may have created a sort of love and veneration for this mode of proceed-

ing. He had listened to the remarks of the gentleman from Eaton, [Mr. BEARDSLEY,] and they seemed to him to have some force, as applied to persons accused of crime. The gentleman from Wayne says, in government prosecutions, it is the duty of the officer to proceed with candor and coolness; to be in some way counsel for both sides; but practically they take the course as if it were the case of a private person. Prosecuting attorneys are usually selected with reference to their ability and standing at the bar; and this is another reason why this proposition should be sustained.

A charge is made, public opinion formed, and, ten to one, public opinion considers the person charged with crime, guilty. An indictment is found; then the prosecuting officer comes before the traverse jury, opens the case, and presents the strongest case he can, fixing the minds of the jury with the conviction that the party is guilty. After the evidence is gone through with, he closes the argument. His ingenuity is always exercised against the defendant. It is wrong, and we cling to it as we do to the grand jury system; because it is antiquated. Does not common humanity require that the prisoner should have the last reply? This is not new. In Mississippi it is their fixed system, and perhaps it is the practice in other States.

Mr. H. said we have got rid, practically, of the grand jury. We leave it to the legislature, and we have no doubt it will be done. If so, this must be adopted. If the prisoner is left to the *dictum* of a magistrate or prosecuting attorney, he should have this privilege.

Mr. McLEOD stated the course of proceedings in criminal cases, and expressed his opinion that in this country sufficient guards were thrown around for the protection of the accused. He has a jury of the vicinage; is confronted with the witnesses, and can make them undergo a rigid cross examination. After the judge has stripped the whole case of all extraneous influence, and presented it on its naked merits, if convicted, he has the advantage of a writ of error or certiorari, and a new trial in case new evidence can be produced. The argument of the gentleman from Oakland [Mr. HANSCOM] is, that the prosecuting officer has the advantage, the other not

knowing what would be produced; but that must also be the case with the prosecuting officer. They are both in the same situation.

Mr. CHURCH—Mr. President: The argument which we have just heard from the Hon. delegate from Mackinac, is not indicative of that clear-headedness which he generally exhibits to such a striking degree. He confounds, I think, the exhibition of the evidence in a criminal case to the jury, with the arguments of counsel. There is that difference between them which should be observed in the discussion of this amendment, and which will enable us to decide correctly in the matter. The evidence in the case is submitted in this wise: First, the counsel for the prosecution presents before the jury that testimony which in his opinion makes out a case—a *prima facie* case; then the counsel for the respondent presents the testimony constituting the defence; then the counsel for the prosecution introduces testimony, in explanation of, or in rebuttal of the testimony of the defence—what is commonly called “rebutting testimony.” That is all right, proper and natural. Now it is proposed that when the argument is taken up, the prosecution should first address the jury, and that the respondent’s counsel should then follow in answer; which should be the end of the matter. This strikes me as the best course. First, there is a saving of time; of which, now, in the trial of such a case, there is too great a consumption. Such a case, I say, sir, generally excites much feeling, and generally involves a large number of facts and circumstances, the discussion of which covers a wide ground. There are now three arguments of counsel, and often more, when more than two counsel are employed. There is no necessity for more than two arguments, when they are to be followed by the charge of an able and impartial judge. The last argument, when pressed with zeal and power upon a jury, must have a strong, a paramount influence. Is it not the dictate of humanity that the benefit of it should be given to the respondent? What harm it may do in the way of the proper administration of justice, the charge of the judge will correct. He will place a rational and clear view of the subject between the rights of the State and the impassioned appeals of the respon-

dent’s counsel. No State, no prosecution, no constituted authorities, ask for, or should ask for, the conviction of a respondent, unless his guilt be clear. Of all reasonable doubt he may avail himself. Just so, if there be any advantage in the closing argument, if it gives another chance to the respondent for an acquittal, I am inclined to say, let him enjoy it. In the words of the old court form, “God grant him a safe deliverance.”

Sir, I have not much considered this subject; but I find that, like many other propositions of the delegate from Eaton, it seems to deserve the attention of this body the more it is considered. But I feel inclined to yield to the instincts of humanity where I am not guided by the deductions of reason; and in nine cases out of ten, when upon a subject matter like this we are *merciful*, we are also just.

This section ten, sir, has not, I fear, been noticed by this Convention as it should be. It is pregnant with instruction. It is the record, in every line and sentence, of the triumphs of reform; it embodies in every clause a right wrested from tyrannic governments and from equally tyrannical courts. By the deprivation of the privileges in this section proclaimed, and by it maintained as constitutional privileges, men of genius, patriotism, and distinguished public service, have been laid upon the scaffold. I could review the history of past years—I could evoke from the State Trials of England instruction and warning of the most momentous and impressive character upon this topic. I shall support, sir, the amendment of the delegate from Eaton.

Mr. WALKER would inquire: suppose we propose this as the authority of the law—the prosecuting officer makes his argument on legal authorities—when the other answers he produces his authorities; shall the prosecuting officer be cut off from answering to those legal arguments?

Mr. McLEOD—One thing I would observe. When a person is put on trial it is presumed he is not guilty; he has the benefit of that presumption, and it is continued till he is proved guilty. The prosecuting officer comes in to show that he is guilty; then comes in the defendant and comments on the statement of the prosecuting officer. It seems fair that he should have an oppor-

tunity of commenting on the statement of the defendant. If he introduces new matter the other will have a right to reply.

Mr. CORNELL—It may be considered presumptuous in me, not being a lawyer, that I should interfere on this subject. I have to say but a few words. I respect the opinions of the gentleman from Mackinac, [Mr. McLEOD.] I admire his towering intellect and his honest heart, but I think in this case he argues from incorrect premises. He says the accused stands as innocent until convicted by a jury; but that is not the case in which he stands with the community. If he is indicted, or if he is brought before a magistrate, he is tried at every fire side, and on the statements made, considered guilty. These are the facts—in the eyes of the law he is considered innocent, but in the community guilty.

Mr. WITHERELL thought the practice in Mississippi not a good precedent; there the bowie knife and the revolver settle the law. When a defendant is brought into court, the law presumes him to be innocent; the jury are always told so; that they have a right to consider him innocent until proved guilty. But many a man has been acquitted and gone unwhipped of justice when many believed him guilty, because of some legal doubt. It is difficult to convict the innocent; though there may have been cases, and must be, from the nature of things and from the nature of man, where the innocent have suffered. Yet, who can point to one conviction for the hundreds and thousands that escape on the principle that a man must be acquitted if any legal doubt exists.

In the English courts, in cases of murder or arson, till within the last fifteen years, counsel were not permitted to speak in favor of the accused. They could sit at the bar and marshal the witnesses, but they could not plead. In that case the counsel for the government felt himself more disposed to go into defence, and the judge still more so, than if the prisoner had counsel to defend him.

When a jury is empanelled, do they look to see whether a man is guilty or innocent? No sir. They look to the government to show the guilt. If a doubt exists in the minds of the jury, they must acquit him. This was the practice in the English courts; but we have changed our

mode, and I think (said Mr. W.) we have gone far enough. Before a person is convicted we must look at the facts. Men may have a general impression if a man is accused that he is guilty; but who ever goes as a juror into court, except in cases of great excitement, with such prejudices? If they do, they must be discharged. The prisoner has a right to challenge, and reject a certain number without showing cause, and others for cause. He may examine them on oath, whether they have any prejudice; and if so, they are rejected. He can choose his own judges, and must be acquitted, if not proved guilty.

Mr. HANSCOM—The last argument of the gentleman is, that many of the most atrocious criminals would escape, if the counsel for the defendant has the last word. It cuts both ways. We want that the influence of counsel shall not be brought to bear altogether against the accused, but that he may have equally the benefit of it in his defence.

Mr. WHIPPLE did not think that the question had been fairly stated. It was merely a question of practice in the courts, and the first point he would make was this: Whether it would be consistent with propriety to incorporate this rule in the constitution of the State; or, as mere practice, it should be left to the Legislature or the courts to regulate?

He [Mr. W.] had never seen a court that had not protected sufficiently the right of the accused, when placed at the bar. The practice of the courts is this: It is the duty of the prosecuting officer to state the evidence he has to adduce to convict the prisoner. Immediately after this it is the right of the counsel for the prisoner to state his case to the jury. This is the practice in some courts.

It has been assumed that the counsel made statements of the case which prejudiced the accused; but if the counsel for the defence wishes to state the case of his client, he may do so. It has always been considered that in the eye of the law the accused had the benefit of being considered innocent until convicted under the verdict of a jury. The gentleman from Jackson [Mr. CORNELL] says the fact is not so? The opinion of the gentleman from Jackson is not in accordance with my experience. What does the counsel do? He

shows all to establish the guilt of the prisoner. If the counsel for the prisoner does not think proper to make his statement, the prosecuting attorney goes on to produce his evidence, and evidence is brought in for the defence. What is the case then? All the evidence is gone through. Has the prosecutor no further rights? Certainly he has. It is simply to rebut the testimony on the part of the prisoner. The evidence is then closed; that is the end of the case, as a matter of order. He believed such to be the most correct mode, as tending most to subserve the ends of justice.

Mr. CHAPEL was opposed to placing this provision in the constitution. Courts and judges made their rules, independent of legislative action. He was in favor of the bill as it stood, as there was all in it that was necessary. He was opposed to spending the time of the Convention in prescribing rules for the courts.

Mr. TIFFANY—The practice of courts and the rules adopted were to subserve the public interests. When they do not, the court can change them. There would be a great risk in taking away from the courts the right to rule them to the advantage of the public. The power was well where it was.

Mr. GALE said this was urged as simply a practice of courts; but was it a rational rule, or one forced and unnatural? Comparing it with all ordinary argumentative proceedings, he considered it forced and unnatural; it left the individual without his natural rights. Every thing proceeds regularly till it comes to the argument as to the criminality, and then they (the parties) change sides. Why do they change sides? The prosecuting officer makes the affirmative argument, the other rebuts it. They are then even; but it is the business of the prosecution to prove, and that is not terminated till he closes.

The gentleman from Wayne [Mr. WITHERELL] admits that if the prisoner has the privilege of closing, he will go unwhipped of justice. But will he have more than his natural right, if he has the winding up? The gentleman says the counsel should give a cool, dispassionate statement of facts; but who ever heard of such a statement? He usually labors as if his own life or death depended upon it, and exerts his ingenuity on the facts, so as to affect

the minds of the jury. It is proper that if there be any superiority on one side or the other, it should be left in favor of the prisoner. The opposition to improvement and advancement comes from persons of age, who have formed strong prejudices which cannot be removed. We must go to the young in these matters, who have not acquired these prejudices. It is so in all cases. Go to the grey headed medical man; go and show him some improvement in practice; he will ask, what would you do with the experience of fifty years. He sees no reason for it. You cannot bring him up to the intelligence of the age, of the habits of the present time; he has not kept up with the progress of the times. Is not this the fact? This will apply here, and applies to this very question. As he had said before, he [Mr. G.] would again observe that this is a practice both contrary to the principles of nature and right.

The question was then taken on the amendment offered by Mr. BEARDSLEY, and lost, as follows:

YEAS—Messrs. W. Adams, Anderson, Arzeno, Axford, Barnard, H. Bartow, Beardsley, Ammon Brown, Asahel Brown, Burns, Bush; Church, Cornell, Crary, Diamond, Gale, Gardiner, Hanscom, Hart, Hascall, Hathaw, Leach, Lee, Mosher, O'Brien, Orr, J. D. Pierce, Prevost, Redfield, Rix Robinson, Soule, Town, Van Valkenburgh, Webster, Wells, Whittemore, Williams—37.

NAYS—Messrs. Backus, Bagg, J. Bartow, Beeson, Britain, Alvorado Brown, Carr, Chapel, Choate, J. Clark, S. Clark, Comstock, Conner, Danforth, Daniels, Desnoyers, Eastman, Fralick, Gibson, Graham, Green, Harvey, Hixon, Kingsley, Kinne, Lovell, Marvin, McClelland, McLeod, Moore, Morrison, Mowry, Newberry, N. Pierce, Robertson, E. S. Robinson, Skinner, Storey, Sturgis, Sullivan, Tiffany, Wait, Walker, White, Whipple, Witherell, President—47.

On motion of Mr. McCLELLAND, section 10 was amended by striking out in the third line, the words "and cause."

Mr. BARNARD proposed to amend section 16 by inserting after the word "contracts," in the first line, the words "or rendering the remedies thereon less effective."

The question being on the adoption of Mr. BARNARD's amendment,

Mr. BACKUS said—Mr. Chairman, I was not in when this article was under consideration in committee of the whole, nor do I know but it has received such full discussion that anything I can say will throw no additional light on the subject; but my own peculiar views in relation to it are such that I should not discharge my duty to myself or my constituents if I did not express them. Whether, in the shape of the present amendment, the rights of the citizen are sufficiently guarded, I have doubts. I believe some provision of this kind is necessary for the safety and welfare of the community. This section, in the present article of the constitution, if it is intended to be declaratory of the rights of the citizens, and for their protection from the encroachment of government, under color of laws, it should be sufficiently broad and explicit to admit no doubt of its construction.

The three first provisions in this section, against bills of attainder, *ex post facto* laws, and laws impairing the obligations of a contract, are entirely useless here, in our local constitution. These matters are most amply provided against in the constitution of the United States. The present proposition is intended clearly and unequivocally to carry the restriction further, and prevent not only the passage of such laws as shall interfere with the obligations of contracts, but all retrospective laws that shall in any way impair the remedy. There is a large class of important rights within the existing restrictive terms as to the obligation of contracts. Judicial decisions have varied, it is true, as to what is embraced within the term *obligation*; the weight of authority is, however, clear and well settled, that it does not extend to restrain an interference by the Legislature with what is avowedly the remedy. To render the matter clear and free from doubt, and prevent all future possibility of judicial equivocation, it is proposed in express terms to extend the restraint to the remedy as well as the obligation of a contract. I submit to the consideration of gentlemen on this floor the propriety of restraining the Legislature from impairing the obligation of a contract, while at the same time you allow the remedy to be entirely de-

feated. It is making a promise to the ear while you break it to the heart; it involves all the injustice and moral obliquity, so to speak, that it would to impair or violate the obligation of a contract. Does the Legislature justly fulfil its high purpose of distributive justice to the citizen in every case, where, by its action, the remedies for enforcing the fulfillment of a contract, existing at the time that contract was made, are diminished or impaired? Had the evil, then, better not be eradicated at once, and clearly, by preventing all retrospective legislation? On the question of retrospective legislation, the courts have uniformly held that a retrospective law, clearly expressed, must be enforced, unless it impaired the obligation of a contract, and came within that prohibition; and that no such law does come within the prohibition, which only effects the remedy. But every court, sound lawyer, philanthropist, and honest man, from old Bede to the present time, have reprobated these laws as manifestly unjust, and unsanctioned by any well settled principles of justice.

The federal and State courts, and especially the courts of New York, have laid down clearly the rule, that the legislative power, unless restrained by constitutional provisions, may pass any law effecting remedies, retrospective in its operation; and the courts must and will enforce it, unless the legislature is restrained by some constitutional inhibition other than that relating to the obligation of contracts. Our own State has in its judicial department followed the same course. This judicial distinction between obligation and remedy, exists with all the force and effect of statute law. It is the rule of property; and in framing a constitutional provision, we should act accordingly.

The leading case of *Calder vs. Bull*, in the Supreme Court of the United States illustrates this distinction. The court there lay down the rule that they cannot interfere with the decision of the Supreme Court of Connecticut; although the law was manifestly retrospective and unjust, yet it affected only the remedy, and did not interfere with the obligation of a contract. In that case, the courts of the State had acted, passed their appropriate decrees, and the whole matter, as far as the judiciary was concerned, fully concluded, and

the rights of the parties put at rest, when the Legislature, by a retrospective law, opened again the whole matter, and again turned the parties back to re-litigate the whole thing over.

It was a marked instance of retrospective law interfering with property settled and vested under a regular course of judicial proceedings; ought we not in the constitution to prevent any such unwarranted proceedings with vested rights, and at once put the matter at rest by preventing the passage of all retrospective laws?

Another case may illustrate the same principle. An execution is levied on real estate; the officer making the levy fails to comply with the law, and the title as a consequence is defective; the owner of the property upon which the execution is levied is unable to support and carry on litigation; the execution creditor, an artful and ingenious man, works himself into the Legislature, or influences others, obtains a special law, purporting to cure the defects of the levy, and drives the poor man from his house and home.

Do the people of Michigan want such laws, such legislation; or had they not rather their rights should rest on a firmer basis, and be in no manner subject to such unwarrantable interference? I believe, sir, they do desire, and if they fully understood it, would loudly demand that their rights arising under legal proceedings, or otherwise, should not be interfered with by retrospective legislation.

The same destructive principle of retrospective legislation is illustrated by a case in our own State—that of Gilbert and Drew—where the plaintiff had recovered a verdict under the law imposing a penalty for usurious exactions; the verdict was essentially just, but technical irregularities had intervened, that induced the judge trying the cause, to grant a new trial, and under the circumstances, rightfully so. Intervening the grant of the new trial and such trial, a session of the legislature occurred, at which, by the suasion of champagne parties and the usual appliances to such bodies, (according to the observation of many of us,) the repeal of the law was brought about with the express view to defeat this verdict, by the retrospective operation of the repealing law. It was done, and the usurer bore off his booty in tri-

umph, in defeat of the law, as well as the just rights of the plaintiff. Many other cases illustrating the principle, and unjust and oppressive operation of retrospective laws might be cited, but it is unnecessary; as all must appreciate the force of this species of legislation.

Shall we then leave the people subject to this species of legislative chicanery, to be stripped of their rights under color of law? On the contrary, should we not, as honest men, mark it with reprobation, and put a final end to all such legislative quibbling, and impress upon future Legislatures the principles of that high character of moral honesty and regard for distributive justice which shall hold the impairing of remedies as obnoxious as the impairing of the obligations of a contract?

Even, sir, in England, under the sway of her omnipotent Parliament, her best judges have given their weight of character and authority to reprobate this iniquitous species of legislation; and some have dared to pronounce it void, as opposed to natural reason and justice.

Why not, then, by a single sentence in your organic law, say that “the legislature shall pass no retrospective law,” and at once and forever put an end to this species of legislation, that exposes the citizen to so much wrong?

The oft repeated attempts to heal up omissions and defects in the proceeding of taxation, by retrospective law, and also in matters of execution and administration titles, are familiar to the observation and experience of every one. The attempt, it is true, when properly secured and met by an honest judiciary, will fail of the end; yet it shows that individuals, and, more especially, communities and sovereign States ought to avoid even the appearance of an attempt to secure public aggrandizement or private gain at the expense of the integrity of the law.

In the same general category is that class of laws usually called “exemption laws.” Much, sir, has been said on this floor in praise of our exemption and stay laws in particular, and maintaining such a system in general. A darker day never dawned on a country and its mercantile and civil prosperity, than the birth day of such a system. They, in fact, make the poor man poorer and the rich man richer.

Such has been the practical result in this State, besides deplorably crushing the commercial morals of the country.

You may exempt the whole broad acres of the State, and you will but change the mode of subjecting them to commercial availability, and cover with mortgages that which before was subject to execution.

In every view, this entire course of legislation is objectionable, both in a moral and commercial point of view. The remedy is now within the reach of the people of this State. Let us wipe out and obliterate this stain and reproach upon us as a people by putting it beyond the power of our Legislature to retrospectively effect either rights or remedies.

On motion, the Convention adjourned.

Afternoon Session.

The Bill of Rights being under consideration,

Mr. BARNARD modified his amendment, offered in the morning, and the question being upon its adoption,

Mr. J. D. PIERCE rose to a question of order. He objected to the reception of the amendment on the ground that the subject matter had been previously disposed of by the Convention.

The CHAIR said the Bill of Rights was the subject under consideration, and which might be amended before ordering to a third reading. He did not think this distinct matter had been finally disposed of; he therefore ruled the amendment in order.

Mr. J. D. PIERCE would state, in reply to the gentleman from Wayne, (Mr. BACKUS,) that he thought the people of the State, and especially the poorer classes, would be surprised at the discovery the gentleman had made, that our exemption laws had been an injury to them.

He (Mr. P.) did not believe the Convention was prepared to say that they should not stay the progress of desolation, when it was brought upon them by the Legislature. They may be spoiled, and would have been, but for some remedial acts. Say what he will, there are two sides of the question. It is the duty of the State to do right. As the Convention had expressed by a decided vote their views on this ques-

tion, he (Mr. P.) would not occupy more time upon it.

The amendment offered by Mr. BARNARD was negatived, by the following vote:

YEAS—Messrs. Axford, Backus, Barnard, Beeson, Ammon Brown, Asahel Brown, Burns, Bush, Choate, J. Clark, Cornell, Desnoyers, Eastman, Fralick, Gale, Gibson, Graham, Hanscom, Hart, Leach, Lee, McLeod, Moore, Morrison, Mowry, Newberry, N. Pierce, Raynale, Robertson, Tiffany, Wait, Whipple, Williams, Withere—34.

NAYS—Messrs. W. Adams, Alvord, Anderson, Arzeno, Bagg, J. Bartow, Beardsley, Britain, Alvarado Brown, Carr, Chandler, Chapel, Church, S. Clark, Comstock, Conner, Crary, Daniels, Dimond, Gardiner, Green, Harvey, Hascall, Hathaway, Hixon, Kingsley, Kinne, Lovell, Marvin, McClelland, Mosher, O'Brien, Orr, J. D. Pierce, Prevost, Redfield, E. S. Robinson, Rix Robinson, Skinner, Soule, Storey, Sturgis, Sullivan, Sutherland, Town, Van Valkenburgh, Walker, Wells, Whittemore, President—50.

Mr. ROBERTS moved to take from the table his motion of Saturday, to postpone the further consideration of the Bill of Rights until all other articles were disposed of.

The motion did not prevail.

On motion of Mr. CHURCH, the vote by which the Convention refused to strike out section 7, on the 21st inst., and insert a substitute offered by Mr. Hanscom, was reconsidered.

And the substitute proposed as follows, was lost:

"Any person may publish his sentiments on any subject, being responsible for the abuse of that liberty; and in all prosecutions for libel, the truth, unless published from malicious motives, shall be sufficient defence to the person charged, and the jury shall be judges of the law and the fact."

Mr. SULLIVAN offered the following amendment to section 23:

Insert after the word "implied," in first line, the following: "except in cases of fraud or breach of trust, or of moneys collected by a public officer, or in any professional employment."

Mr. RAYNALE moved to amend the amendment by striking out the words "or in any professional employment;" which was lost.

Mr. RAYNALE had no objection to leave lawyers subject to the exception, but he objected to leave physicians in that position, for the fact that the legislature had taken from them all legal means of obtaining pay for their services; and as there seemed to be a disposition in the Convention to leave the legislature power to do so, it would be hard, after taking away all legal remedy to collect debts, that they should be liable to imprisonment for malpractices.

The amendment was negatived.

Mr. SULLIVAN'S amendment was adopted.

Mr. CHURCH offered the following:

Resolved, That sections 5, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 25, 27, 28, 29, 30 and 31, be referred to the committee on the arrangement and phraseology of the Constitution, with instructions to insert the same in the appropriate articles, and to adapt them thereto.

Mr. C. said—I presume, sir, the work of *perfecting*, that has been going on in this Convention for some time, is now about ended. This Bill of Rights has been licked into something like the desired comeliness and proportion. If there be any members desirous of still further prosecuting the endeavor—if any one wishes to amend an existing section or to add another—I will not press the resolution at this time. But I suppose, sir, the rage for amendment has become somewhat satiated, and I will proceed to make a remark or two in support of the resolution.

I have, sir, carefully examined this Bill of Rights; I have analyzed its sections, and I find that a number of them relate to the judiciary, and its course of procedure; a number to the Legislature and the character of the laws by it to be enacted; a number to the militia and the organization and operations thereof; a few to incorporations, their powers and action, and then what remains of the article is of a miscellaneous character, and without any apparent or real usefulness.

The resolution comprises in its enumeration the several classes of which I have spoken. There are still left a few sections, the first ones in the article, which speak of the inalienable rights of man, which I regard as solemn humbugs; such, however, in this position, I am willing to

leave for their final passage, confident that the good sense of the Convention will, when they are put upon that passage, reject them. Otherwise, they should be enlarged by the addition of several other plausible truisms, such as “all may breathe the common air,” “all men have the right to life, liberty and the pursuit of happiness,” and all such axioms, and as many more as the ingenuity of members might manufacture, I am willing should be proffered here as a “Bill of Rights,” confident, I again say, that the good sense of this Convention will properly dispose of them.

The committee on phraseology and arrangement, I trust, sir, will adapt the sections mentioned in the resolution to those articles of the new constitution to which they refer—with which they have any connexion. They will thus be preserved, and insure to the people of the State all the benefits they were framed to secure. They will then be in a form commended by good taste—holding in view their meaning, object and influence. Elsewhere, they are a pointless and valueless declaration of doctrines, without necessity and without apology.

I say, sir, I see no necessity for a Bill of Rights, to be prefixed to this constitution. And upon this topic I will read from Judge STORY, who has been so often cited here, and whose remarks will convey to this Convention my ideas in much better language than I can myself employ.

In the 3d volume of his *Commentaries on the Constitution of the United States*, pp. 714 and 715, he says: “Bills of Rights are, in their origin, stipulations between kings and their subjects—abridgements of prerogative in favor of privilege and reservations of rights not surrendered to the prince. Such was Magna Charter, obtained by the Barons, sword in hand, of King John. Such were the subsequent confirmations of that charter by succeeding princes. Such was the Petition of Right, assented to by Charles the First, in the beginning of his reign. Such also was the declaration of rights presented by the lords and common, to the Prince of Orange, in 1698, and afterwards put into the form of an act of Parliament, called the Bill of Rights. It is evident, therefore, that according to its primitive signification, a bill of rights has no application to constitutions professedly

founded upon the power of the people, and executed by persons who are immediately chosen by them to execute their will. In our country, in strictness the people surrender nothing; and as they retain every thing, they have no need of particular reservations. 'We, the people of the United States, to secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America,' is a better recognition of popular rights, than volumes of those aphorisms which make a principal figure in several of our State bills of rights, and which would sound better in a treatise on ethics than in a constitution of government."

Our theory is, Mr. President, that sovereignty resides in the people. Whatever government we institute, has only delegated powers. Those not expressly, or by justifiable inference, delegated to our agents yet remain, and will continue to remain, in us—in the people. In fact, s.r, this enumeration of rights contained in the article we have had so long under consideration, might be construed to disparage or even to deny the possession of others by the people—the fountain, the source, and the bestower of all power. And against such a conclusion have some States, expressly, in direct words, striven to guard.

I submit to the Convention, as a mere matter of taste, whether a constitution, commencing with the simple announcement that "we, the people of the State of Michigan, in Convention assembled, to secure the blessings of liberty to ourselves and posterity, have ordained and do ordain this constitution of government;"—proceeding then to a division of the powers of government; then to an article establishing, for instance, the legislative department, setting out its construction, its operation, its limits and restrictions; then an article establishing the judiciary, its formation, its jurisdiction, and its extent and manner of action, and thus through; describing with simplicity and clearness, each part of our government, its powers, and closing in each by the necessary checks and balances—would not present to the world a better document, one in better taste, and of more manifest utility, than one lumbered with a bill of rights, confused, miscellaneous, and calculated only to

mislead the inquirer, by its unfortunate location of those principles, which should be in that position where their value can be apparent at a single glance. Every declaration of principle in this Bill of Rights, designed to prevent the abuse of delegated power, can be preserved by the committee, to whom I propose the reference, and be appropriately placed in their final draft of the constitution, to be, at the close of this session, laid before us. I hope, sir, the Convention will take my view of this subject, and refer the article.

Mr. McCLELLAND said—After being read a third time, the Bill of Rights will go, as a matter of course, to the committee on phraseology. He concurred with the gentleman from Kent, [Mr. CHURCH,] in his view of the subject.

Mr. CHURCH withdrew his resolution.

Mr. RAYNALE offered an amendment to the bill, to stand as section —, "Capital punishment is prohibited."

Mr. McCLELLAND was willing to let the matter rest with the Legislature. They had abolished it, and he was willing they should fully try the experiment; but he was opposed to placing the prohibition in the constitution.

Mr. BACKUS was opposed to the insertion of the article in the Bill of Rights, until the expediency of the measure was tested. In the absence of that conviction, he was disposed to wait for the report of the committee on crimes and misdemeanors, who had this subject under consideration. He [Mr. B.] expected an able report from that committee, notwithstanding the chairman had vacated his seat.

Mr. WILLIAMS would vote against such a provision in the constitution. He would leave it for legislative action.

Mr. WITHERELL would leave it to the people to act through the Legislature. He would not have them impose the death penalty, unless it should become absolutely necessary. If crimes should become rife, as on the Mississippi, it might be necessary again to resort to the death penalty.

Mr. S. CLARK hoped the gentleman would withdraw the measure at this time. He was not prepared to make it the organic law of the land. The Legislature had abolished it; let it remain there. As had been said, if crimes should become numerous, the Legislature would have the pow-

er to renew it. Why not let it remain as it is? Why compel the Convention to vote on it at present? Mr. C. said it appeared to him to be acting on a question of great importance without due deliberation.

Mr. RAYNALE withdrew the amendment, on an understanding that he would present it for the consideration of the Convention on some other occasion.

Mr. McLEOD proposed to incorporate in the Bill of Rights, the following: "The universal education of the youth of our country is indispensable to the purity and permanency of our democratic institutions and system of government."

Mr. RAYNALE moved to insert "and whig."

Mr. LEACH would add "free soil."

Mr. McLEOD said—I offer this proposition for two-fold purposes. This Bill of Rights contains five or six very incongruous propositions, affirmative of fixed facts and maxims.

He was desirous that this should be admitted on the same footing as those ancient propositions. He had found it in the report of the chairman of the committee on education. He wanted to see it incorporated, because it originated with ourselves. Almost every proposition was copied from the Wisconsin constitution. While we are vagabondizing, like a beggar with a basket begging cold provisions, he was desirous of seeing something of our own inserted. The proposition was so obvious, so true, that no one could call it in question. As it was so indisputable, he hoped it would be inserted.

Mr. WILLIAMS would suggest that the word "white" might be an improvement, if inserted before the word "democratic."

The motion did not prevail.

The article was read a third time, and,

On motion of Mr. CHURCH, was referred to committee on phraseology, with instructions to insert the same in the appropriate articles and to adapt them thereto.

On motion of Mr. CRARY, the Convention resolved itself into committee of the whole on the article entitled State Officers, Mr. J. D. PIERCE in the chair.

On motion of Mr. CRARY, the words "Attorney General" were stricken out of the second line of first section.

Mr. HANSCOM moved to strike out the words "an Auditor General."

Which did not prevail.

Mr. WHITEMORE moved to insert in the 1st line, after the words "Secretary of State," the words, "who shall be ex-officio Superintendent of Public Instruction."

Mr. CRARY—As the gentleman who proposes this amendment had been Secretary of State, at a salary of \$1,000, he wished to know if there was not business in that office to occupy the time of one man; as there had been an under Secretary, he (Mr. C.) should have supposed so.

Mr. WITHEREEL was of opinion that the Convention should look to the increase of population in the State, and fix the Constitution with some reference to a future state of things.

Mr. VAN VALKENBURGH said—By the system of public instruction proposed by the committee on education, the labors of Superintendent would be vastly increased, if he discharge his duties faithfully. It would be onerous to throw the burden on the Secretary of State.

Mr. BUSH said—They had no provision in the Constitution of the State of New York for the appointment of such an officer. The Secretary of State was ex-officio Superintendent.

Mr. VAN VALKENBURGH said—that was true; but it was also a fact that the duties of the office were performed by another person.

Mr. BUSH was aware that the duties were performed by the under Secretary of State, but we have the same officer here.

Mr. HANSCOM said—To elect the head of a department and give him power to appoint and superintend others who do the labor, and who receive salaries almost equal to his own, would be wrong.

Mr. WITHERELL would rather combine the Commissioner of the Land Office with the office of Secretary of State.

Looking at the vast importance of the education of the youth of the country, he should prefer that it be placed under the control of a person who should have it solely and exclusively—of a person who should not be under the necessity of leaving the business in the hands of a clerk, but that he should be elected as such. The expense would not be varied much. We shall only be giving the Secretary of State

the appointing power, instead of keeping it in our own hands, and carrying it out by election. If there was one subject of vital importance, it was this; and he believed the duties were such as to require the faithful attention of one man. At certain seasons it must be evident the Secretary of State could not perform them.

The question was taken on striking out, and lost.

Mr. ROBERTSON moved to strike out the words "who shall be ex-officio," in the second line.

Mr. R. said the object of the amendment was to leave the offices of Treasurer and Commissioner of the Land Office as distinct departments, instead of combining them, as reported by the committee.

The office of State Treasurer was one of the most important offices. The office of Commissioner is also of much importance, requiring a deputy and a clerk. It would be very improper to unite those offices and give the Treasurer the appointing power—the power to appoint a Commissioner and two clerks. Mr. R. Would admit that a difference of opinion existed on this question; but it appeared to him that the office was one of growing importance, and that there should be some person elected by the people, and responsible to them for the duties of that office.

Mr. S. CLARK hoped the report of the committee would be sustained. He was opposed to multiplying unnecessary offices. The other State officers are of opinion that they can do the business of this office in addition to their own. Under such circumstances he thought it improper to keep it up as a distinct State department.

Mr. REDFIELD believed the business of the Land Office was of such a character as might with propriety devolve on the Treasurer. The duties were merely of a mechanical nature. The business of the greatest importance had been done—the five hundred thousand acres of land granted by Congress to this State, had been disposed of. The business of the office is merely keeping an account with those who have bought school lands, and occasionally selling a lot; it can be carried on by subordinates. The committee who reported the article had no doubt in their minds with regard to the propriety of combining the two offices.

Mr. CORNELL had been informed from a reliable source, that the Treasurer can perform the duties of the Land Office, and perform them well. He would have half or two-thirds of his time which he could spare from his duties as Treasurer, to devote to the duties of the Land Office.

Mr. ROBERTSON said he was not much versed in State affairs; but it seemed to him the State officers would like to have the appointing power, instead of its being left with the people. The Legislature last winter passed a bill to combine this office with that of the Auditor, but afterwards repealed it.

Mr. N. PIERCE said—I should be glad to go with the gentleman to dispose of all the offices that can be done prudently. I think it is not best to abolish this office, which ought to be under the management of an officer possessing judgment and financial skill to take care of the funds of education. Without due care of those funds we shall do little to educate our children. In other States there has always been an agent—an acting agent—employed for years, regularly. For my own part, the more I have looked it over, I think it almost as necessary to have that officer as to have a Governor. I think the office of Lieutenant Governor might be done away with; but I do not believe the duties of the Land Office should be amalgamated. It requires a man to look after the lands; to see that no depredations be committed upon them. It will be better to elect an officer than to allow the State Treasurer to do it and appoint a clerk.

Mr. LEACH hoped the amendment would not prevail. He believed the duties of the land office could be performed equally well by the State Treasurer, as he was informed the Treasurer could spare sufficient time from the duties of his office to attend to those of the land office. There are but few periods when the duties of Treasurer are arduous; he has a large amount of time on his hands. The transfer of the duties of the land office to him would effect a considerable saving of expense.

Mr. BUSH said he had been rather inclined to support the proposition of the committee to merge the two offices in one; but he must confess the arguments of the

gentleman from Oakland and others had changed his opinion.

By the amendment of the constitution which has been adopted by the people, the appointing power is taken from the Governor. But what are we about to do? To elect a State Treasurer and give him a great patronage. He will hold the purse and almost wield the power of the sword. We shall place in the hands of the Treasurer what ought to be in the hands of the people. If, under the present arrangement, two clerks are not required in the land office, let one be dismissed; but if it be proper that the electing power should be in the hands of the people, let them exercise it.

Mr. CRARY contended that there was an absolute necessity for retaining the office and the superintendence of a Commissioner, who had not only office duties to perform, but had to go into the interior of the State and look after the public lands. If this office should be closed, the trespasses on the public lands would be enormous. Land now worth twenty dollars an acre, would be reduced to the value of twenty shillings. The business would be better done in a separate office; there were duties enough for the Commissioner to perform, and the State Treasurer will have as much money through his hands as he can receive and pay out.

Mr. BAGG was not disposed to blend these two offices together. He would prefer that the Commissioner should be elected by the people than appointed by the Treasurer.

Mr. CHURCH was of opinion that the Convention should not act solely in view of present circumstances, but should look to future contingencies. When (said Mr. C.) we look to the source from which we have derived those lands, who can say that the source of beneficence is closed up? When we see the liberal views put forth lately by Mr. WEBSTER, and other popular men, may we not expect more liberal donations of lands.

We have not yet received our due proportion of lands with the other North-western States. Ohio has received from grants by Congress a million of acres more land than the State of Michigan; and we may put in our claim for an additional donation. We cannot expect it except for the purpo-

ses of education. If that be the case, do we not see a necessity for the continuance of this office? If we retain such an officer, and make arrangements so that he shall look after the public lands, as other land owners do, he might find occasion to put in force the laws for the protection of such property.

Mr. S. CLARK considered this office a useless one. The duties would be better performed by the Treasurer, than under the present system. He considered it a question of economy, whether we should pay out a thousand dollars for a commissioner of this office, the duties of which could be better performed by the Treasurer and clerks, and which duties appertain to the office of Treasurer. He (Mr. C.) did not believe the liberties of the people of the State would be endangered by leaving the appointment of a clerk or two in the hands of the Treasurer.

Mr. WALKER—It has been said that because the 500,000 acres of land have been disposed of, the business of the office must be terminated. But a small portion only of the school and university lands are disposed of, and the business will be increasing. The Commissioner has to keep an account open with every individual purchaser of those lands. As the sales increase, the business of the office will increase.

On motion of Mr. HANSKOM, the committee rose and reported progress, and obtained leave to sit again.

On motion of Mr. McCLELLAND, the Convention adjourned.

TUESDAY, (20th day,) June 25.

The Convention was called to order at the usual hour.

Prayer by the Rev. Mr. TOOKER.

PETITIONS.

By Mr. LOVELL: of D. L. Case and 13 others, praying that there may be submitted to the people for their approval or disapproval, a provision prohibiting the sale, manufacture, and importation of intoxicating drinks as a beverage, from and after the first day of January, 1854, which provision, if approved by the people, shall become a part of the new constitution.

Referred to the select committee appointed on the 17th inst.

By Mr. BEESON: of Chas. Jewett and 106 others, citizens of Berrien county, requesting such action by this Convention as will check the emigration of slaves into this State from others; and also a remonstrance against the submitting of any provision granting the right of suffrage to any other than free white citizens.

Referred to the committee of the whole.

REPORTS.

Mr. J. D. PIERCE, from a majority of the committee on exemptions and the rights of married women, submitted the following:

ARTICLE —.

Exemptions and the Rights of Married Women.

1. The personal property of every resident of this State shall be exempted to the amount of not less than five hundred dollars, from sale on execution or other final process of any court of law or equity.

2. The homestead of every family, of not less than forty acres, which shall not be included in any city, village or recorded town plat, or in lieu thereof, any lot in any city, village or recorded town plat, shall not be subject to forced sale for any debt hereafter incurred; nor shall the owner of such homestead, if a married man, alienate the same by any deed of conveyance, without the consent of his wife, obtained in due form of law.

3. The homestead of any family, after the death of the owner thereof, shall likewise be exempt from the payment of his debts contracted after the adoption of this constitution, in all cases where any minor children shall survive the death of such owner, for their benefit and support during minority.

4. Whenever the owner of any homestead shall de cease, leaving a widow, but no children, the same shall also be exempt, and the rents and profits thereof shall accrue to her benefit during the time she shall remain a widow; provided she be not the owner of a homestead in her own right.

5. The real and personal estate of every female, acquired before marriage, and all property to which she may afterwards become entitled, by any gift, grant, inheritance or devise, shall be and remain the estate and property of such female, and

shall not be liable for the debts, obligations or engagements of her husband.

Mr. P. stated that a minority of the same committee would make a counter report.

The article was read a first and second time by its title, referred to the committee of the whole, and ordered printed.

RESOLUTIONS.

Mr. WHITE offered the following:

Resolved, That when this Convention adjourn at noon, on Monday the 1st day of July next, it stand adjourned until Wednesday morning, July 10th, ensuing.

Mr. HANSCOM moved the previous question, which was seconded, and the yeas and nays being demanded, the resolution was lost; yeas—38; nays—45.

Mr. CHURCH offered the following:

Resolved, That the Commissioner of the Land Office be and he is hereby requested to furnish to this Convention with all convenient dispatch, a statement embracing, as far as practicable, the following particulars:

1st. What quantity of Primary School Lands is still unsold.

2d. What quantity of University Lands is still unsold.

3d. What quantity of Salt Spring Lands is still unsold.

4th. What quantity of State Building Lands is still unsold.

5th. What quantity of Asylum Lands is still unsold.

6th. What quantity of Assett Lands is still unsold.

7th. What quantity of Normal School Lands is still unsold.

8th. What quantity of Internal Improvement Lands is still unsold.

9th. What number of accounts have been opened in the Land Office, upon sales of these several classes of lands, and what number thereof, for each year.

10th. What number of forfeitures have occurred on sales of Primary School Lands and University Lands during the current year, and the amount of penalties on said forfeitures.

Mr. C. said—Upon so important a proposition as that made by the committee on State Officers, now under consideration, I will admit, Mr. Chairman, that I wish for more information than has so far been furnished to us. Were I obliged to remain in the same ignorance of the subject it

which, sir, I admit myself now to be involved, I should almost feel compelled to adopt the recommendation of the committee, and vote for the virtual abolition of the office of Commissioner. The enlightened views and large public experience of the delegate from Cass, who stands at the head of that committee, would have a controlling influence with me. But when I reflect that this matter reaches farther than is at first apparent to observation—that it involves in some of its possible consequences the most vital interest of our young State—its public education—that the office now proposed to be abolished has certain connections with that vast and rapidly accumulating fund with which our most sanguine hopes are involved, I must be allowed to hesitate. In this view, sir, I have concluded to institute the inquiry contained in the resolution I have sent to the chair.

It is true, sir, that the only call for information from the departments of State which we have so far made, has not been a successful one. We invoked “spirits from the vasty deeps” of the Auditor General’s office; but like those called by Glendower, *they would not come*. I hope we may prove fortunate in our second attempt in another quarter.

The resolution was adopted.

Mr. BACKUS offered the following:

Resolved, That the committee on finance and taxation be instructed to inquire into the expediency of reporting a provision in the constitution that all assessments and taxes shall be equal.

It was adopted.

Mr. WHIPPLE moved that the Convention go into committee of the whole on the article entitled State Officers.

Which was not agreed to.

On motion of Mr. McCLELLAND, the special order of the day, being the report of the committee on the judiciary, was postponed until Monday, the 8th of July next.

On motion of Mr. BRITAIN, the Convention resolved itself into committee of the whole, on the article entitled Militia, Mr. J. CLARK in the chair.

Sec. 1. The militia of this State shall be composed of all able bodied white male citizens between the ages of eighteen and forty-five years, except such as are or may

hereafter be exempt by the laws of the United States or of this State.

Mr. COMSTOCK moved to amend section 1, by adding thereto the following:

“But all such inhabitants of this State, of any religious denomination whatever, as from scruples of conscience, may be averse to bearing arms, shall be excused therefrom, upon such conditions as shall be prescribed by law.”

Mr. C. offered his amendment in consequence of the fact, that there was in the State a very large number of individuals averse to bearing arms, and sooner than do so, were willing and ready to suffer imprisonment. One particular society with which he was well acquainted, should receive this small boon at the hands of the Convention. This society had always paid freely and willingly their due proportion of all State and county taxes, and were willing still to do so, but from conscientious scruples, they were averse to bearing arms.

Mr. HANSCOM saw no necessity for incorporating the amendment in the constitution, as the section already provided for such cases, if the Legislature thought best to exempt them.

Mr. COMSTOCK—My amendment is embraced in the constitution of New York. I hope it may be adopted.

Mr. WHITE—The amendment is *verbatim* as in the constitution of the State of New York, and I hope it will be adopted.

The vote was then taken, and the amendment prevailed.

Mr. LEACH moved to amend the section by striking out of line 1, the word “white.” Mr. L. said the section, as it stood, imposed duties on the white population that were not imposed on the black; and exempted the black population from services from which the whites were not excused.

The committee refused to strike out.

Sec. 2. The Legislature shall provide by law for organizing, equipping and disciplining the militia, in such manner as they shall deem expedient, not incompatible with the laws of the United States.

Mr. HIXON moved to amend section 2, by striking out of line 1, the words “and disciplining.”

Mr. HANSCOM—I hope the gentleman will give some reason why the words should be stricken out. They were insert-

ed in the article that we might obtain our quota of arms. The discipline here is by no means strict.

Mr. FRALICK—I hope the motion to strike out will not prevail. It is well understood what disciplining the militia is, in this State. We may have occasion to call out our militia at some future time, and they should be provided with arms. It is not intended by the section to discipline them from year to year, but it is left to the Legislature to make such provision in regard to the matter, as they may think proper.

The motion was lost.

Sec. 3. Officers of the militia shall be elected or appointed in such manner as the Legislature shall from time to time direct, and shall be commissioned in such manner as may be provided by law.

Mr. LEACH moved to amend 1st line, section three, by striking out the words, "or appointed."

Mr. WITHERELL—I hope the amendment will not be adopted. If, in a case of emergency, a rapid organization should be necessary, we might encounter difficulty and delay, unless the power of appointing officers were given. In such cases, an election of officers might not be easily had, and the power of appointment would facilitate the organization.

Mr. HANSCOM stated that the appointment of officers, as provided for by the section, would save the expense of coming out for an election.

Mr. LEACH thought if the militia were ever called out, even in a case of emergency, it would be better for them to elect their own officers. He certainly would prefer to elect his own officer, if he should ever be called out. The principle of appointing officers was anti-democratic and tyrannical—the principle of electing was the true democratic one.

The amendment was lost.

Mr. WITHERELL offered the following, to stand as a new section:

"The Legislature may make such provisions for the support of independent or volunteer companies, as they may deem expedient."

Mr. W. said—In offering this as an independent section, he trusted it would receive the approbation of members. The Legislature might, perhaps, have the pow-

er to act in the matter, but the proposed new section placed it beyond doubt, and gave them authority in unequivocal terms. There were many fine companies in the State—in the city of Detroit, and other places, and they should receive the countenance, and to some extent, the aid of the State. These independent companies were organized at great expense to the officers and individual members; and while they were a source of proper State pride, it appeared to him but just that they should be assisted in keeping up their organization and efficient system of training and discipline.

These companies were sometimes called out, as they were ready at any hour to march in the service of the country. One had been stationed at Mackinaw, and another at Dearborn, and it might be necessary to call them out again. There were no internal troubles at present, requiring their services; but experience had shown there might be an actual necessity for them in cases of riot and other disturbances. In Philadelphia and New York, the former particularly, the volunteers were often called out, and quelled these disturbances. Their efficiency and value were plainly shown in these cases.

These companies (said Mr. W.) were composed of respectable and valuable young men. Their organization and equipment, as he had stated, were expensive, and a heavy tax on them individually. A small amount drawn from a wider source would be scarcely felt, while it would relieve them from an onerous individual expense. He did not expect the Legislature to make an appropriation for the aid of these companies, but by setting off fines that may be imposed, it would afford the necessary assistance. He hoped the proposition would be adopted.

Mr. HANSCOM said—The committee, with the exception of one member, were all in favor of such a proposition, if it were not already in the power of the Legislature to make the provisions desired. It was thought best that the article should possess the quality of brevity; hence the omission to state the matter fully. If there were any doubt as to the authority of the Legislature to make the necessary provisions under the section, he would be in favor of adding the proposed section, so that

the Legislature would consider it obligatory on them to do it.

Mr. MORRISON saw no necessity for incorporating the provision in the constitution. He did not want a standing army in the State.

Mr. BRITAIN moved to amend by striking out "support," and inserting "organizing."

Mr. WITHERELL supposed that was already provided for. The amendment, if adopted, would destroy the effect and intention of the proposed section. As it was a matter of doubt whether, by the article reported by the committee, the Legislature had authority to make any provision for the aid and support of independent companies, he had offered the proposition to place it beyond cavil. If the State did not wish to have these independent uniform companies, abolish them at once. If they preferred to have them, let the State aid and assist in keeping them up. Most of these companies were well drilled, and would compare favorably with those of other States.

Mr. MORRISON had no objection to authorize the Legislature to provide for the organization of independent companies, but he did object to authorizing the Legislature to provide for their organization and support—to pay them money. If they are paid, (said Mr. M.) do we not provide for a standing army? And does not the proposition intend that the Legislature shall pay for their training, &c.? Such, undoubtedly, would be the construction placed on the section. If a tax of two shillings were once paid them, it would establish a principle, and there would be no limit to the amount.

Mr. BRITAIN was willing, after these companies had organized, to grant them certain exemptions; but he was unwilling to authorize the Legislature to employ men and pay them for such services. He was opposed to sanctioning any such principle. If the proposition of the gentleman from Wayne [Mr. WITHERELL] were adopted, it would open the door to a vast system of expense.

Mr. TIFFANY was in favor of the proposition of the gentleman from Wayne. From the report of the committee, their intention seemed to be to dispense with the training of the militia, entirely, and some

military organization would be necessary. These independent companies were the only hope left, and it was no more than justice, and in accordance with a correct principle, to authorize the Legislature to assist in keeping up their organization. The companies were mostly composed of highly respectable, but poor young men, who were unable to incur the necessary expense.

The object of the proposition was to collect and apply to their benefit a small fine, such as the Legislature should think proper to impose. It was but right that others should pay for what was performed for them, and by the performance of which they were excused from any military duties. The time might come when it would be necessary to call out these companies in defence of the State, and they should be as well organized and as efficient as possible.

Mr. WITHERELL remarked that a very small tax would be necessary to enable these companies to sustain themselves. A tax of one cent on each tax-paying citizen, would be sufficient, in addition to the fines imposed by the companies on absentees. But there were other modes by which the Legislature could aid them, and he was willing to leave it to that body. He hoped the amendment of the gentleman from Berrien [Mr. BRITAIN] would not prevail.

Mr. GALE said he was not aware that these independent companies were of any real benefit to the State. They were only in the cities and villages, occasionally travelling on some pleasure excursion; none were to be found in the country. In the last war their services were no more efficient than those of the militia. He was opposed to imposing any tax on the people for their support.

Mr. HANSCOM—The object of the proposition is, to provide for contingencies. Michigan is a border State, where difficulties are more likely to arise than if situated in the interior. These difficulties have occurred, and they may again; and it should be left to the Legislature to provide for such organization of these companies as they may deem proper, should it ever become necessary to call them out speedily and promptly. It was true, as had been remarked by the gentleman from Genesee, [Mr. GALE,] that independent companies

were mostly located in cities and villages; yet we should not be so jealous of them as to suppose they would exercise a dangerous power. In large cities, particularly, their services were at all times necessary to suppress mobs, quell riots, and attend at large fires to protect property. The companies were mostly composed of young men from all parts of the State, and the Union, and imbued with too great a love of country, too much patriotism, ever to be unloyal to the State authorities.

Mr. CHAPEL offered the following substitute:

"The Legislature may provide for the organization of independent companies, provided no tax shall be levied, or appropriation from the treasury for such object shall be made, except in times of public danger."

Mr. C. said he thought a provision of this character necessary. He was willing to extend some encouragement to young men to enable them to organize their companies, elect officers, &c. Their services might be needed in cases of emergency, and they should be ready at all times; but he was decidedly unwilling to authorize the Legislature to levy any tax for their support, unless in times of public danger.

Mr. GALE could discover no difference in effect, between the substitute and the original proposition. If the Legislature provided for the organization of these companies, they would be kept up, of course. The gentleman from Oakland [Mr. HANSCOM] had said their services were necessary in cities. If the cities needed them as a watch or police, to quell riots and mobs, and protect property, the cities should pay them as they paid their other municipal officers, sheriffs, constables, night-watch, &c.

The vote was taken on the substitute and it was lost.

The question being upon Mr. BRITAIN's amendment, the same was lost.

The question then recurring upon Mr. WITHERELL's proposition, the same was not agreed to.

On motion of Mr. COOK, the committee rose, reported the article back with an amendment, asked the concurrence of the Convention therein, and to be discharged from the further consideration of said article.

The committee, through their chairman, reported the same back to the Convention; and the question being on concurring with the amendment made in committee to section 1, (the amendment of Mr. COMSTOCK).

Mr. HANSCOM said he trusted the Convention would not concur, as such a provision was entirely useless and unnecessary. It should be left to the Legislature to make such provisions in regard to the matter as were proper. It was not to be presumed that the Legislature would ask the services of these persons unless some absolute necessity made it necessary.

Mr. COMSTOCK, in reply to the gentleman from Oakland, [Mr. HANSCOM,] would state, that he had known persons to suffer imprisonment, so great and invincible was their determination, purely from conscientious scruples, not to bear arms. As he had before stated, if the request to be exempted from military duties was not accompanied by an avowal of willingness to contribute cheerfully in any other manner to the support of the government, he would not ask this favor of the Convention.

The question was taken, and the amendment concurred in by the Convention.

Mr. WITHERELL proposed the following, as an additional section:

"The Legislature may provide by law for the organization and support of independent or volunteer companies, as they may deem expedient."

Mr. W. said some of his constituents felt a deep interest in the matter, and to show them that he had done his duty, he called for the ayes and noes.

The call was sustained, and the amendment lost, as follows:

YEAS—Messrs. Backus, Bagg, J. Bartow, Comstock, Crouse, Desnoyer, Gibson, Graham, Harvey, McLeod, Moore, Witherell, President—13.

NAYS—Messrs. W. Adams, Alvord, Anderson, Arzeno, Axford, Barnard, H. Bartow, Beardsley, Beeson, Britain, Alvarado Brown, Ammon Brown, Asahel Brown, Bush, Butterfield, Carr, Chandler, Chapel, Choate, S. Clark, Conner, Cook, Cornell, Danforth, Dimond, Eastman, Fralick, Gale, Gardiner, Green, Hanscom, Hart, Hascall, Hathaway, Kingsley Kinne, Leach, Lovell, Marvin, McClelland, Morrison, Mosher,

Mowry, Newberry, O'Brien, Orr, N. Pierce, Prevost, Raynale, Roberts, Robertson, E. S. Robinson, Rix Robinson, Skinner, Soule, Storey, Sturges, Sullivan, Tiffany, Town, Van Valkenburgh, Wait, Walker, Webster, Wells, White, Whipple, Whittemore, Williams—69.

The article entitled "Militia" was then ordered engrossed for a third reading.

On motion of Mr. CRARY, the Convention resolved itself into committee of the whole on the article entitled "Executive Department," Mr. WALKER in the chair.

Sec. 1. The Executive power shall be vested in a Governor, who shall hold his office for two years; a Lieutenant Governor shall be chosen at the same time and for the same term.

Mr. BRITAIN moved to amend by inserting after "Lieutenant Governor," the words "Speaker of the House of Representatives, each of whom."

Mr. B. said if the amendment were adopted, similar amendments would be required to be inserted in several other sections of the article. It was not his intention to make a speech on the subject at that time, but he would briefly state a few of the many reasons that might be adduced in favor of his amendment.

First, it would give that officer ample time and opportunity to qualify himself for his duties.

Second, he would be elected by the people—a sure guaranty that he would be competent.

And another reason was, that in case of the removal or death of the Governor and impeachment of the Lt. Governor, instead of having the executive authority fall into the hands of the President *pro tem.* of the Senate, it would devolve upon the Speaker of the House of Representatives, an officer chosen by the people.

As a resolution offered by himself, some weeks since, embracing the proposition, had been referred to the committee on State officers, he would be glad to hear what disposition had been made of it.

Mr. REDFIELD said the resolution had been overlooked by the committee; however, he thought favorably of the proposition.

Mr. WHIPPLE regarded the proposed amendment as a very singular proposition.

It proposed to make a legislative officer an Executive officer. We divide the powers of the government, and now propose to violate that salutary provision.

Mr. BRITAIN—It makes the Speaker occupy a position the same as that of the Lieutenant Governor.

Another reason, he had not stated when up before, in favor of his proposition, was, that by electing that officer, no county would be robbed of its representative.

Mr. COOK was opposed to creating another office, thus making an additional expense to the State. As to robbing any county of its representative, it was a well known fact that the county from which the Speaker comes, is the best represented on the floor of the House. By creating this new officer, the expense of his per diem and mileage would have to be incurred.

The vote was taken and the amendment lost.

Sec. 2. No person shall be eligible to the office of Governor, or Lieutenant Governor, who shall not have been five years a citizen of the United States, and a resident of this State two years next preceding his election; nor shall any person be eligible to the office of Governor who shall not have attained the age of thirty years.

Mr. HANSCOM moved to amend by striking out all after the word "election."

Mr. CHAPEL said he would like to hear some reason from the gentleman, why the clause should be stricken out.

Mr. HANSCOM would rather hear some reason why it should not.

Mr. CHAPEL thought it strange that there should be opposition to this provision. It was a guard against young men of peculiar greenness. He was of opinion that the words proposed to be stricken out should be retained.

The motion to strike out was lost.

Mr. BRITAIN moved to amend by inserting after "Lieutenant Governor," the words "or Speaker of the House of Representatives."

Mr. B. said he hoped the Convention would reflect upon the propriety of the measure. If it had no other merit, it possessed the advantage of securing at all times to the people an officer of their own choice.

As to the question of expense, the pay of Speaker would be three dollars per day;

and as the Legislature, after the next session, would be limited to forty days, it would be one hundred and twenty dollars. Admit that it would amount to two hundred, would it not in fact be a saving of expense? He might safely say—and gentlemen familiar with the matter would bear him out in the assertion—that the education of a new hand for Speaker cost the State annually ten thousand dollars. To be sure, there were occasionally exceptions; but it was more frequently as he had stated—the exceptions were rare.

Mr. WHIPPLE—I have great respect for the opinions of my colleague, [Mr. BRITAIN,] and if he will make his proposition when the article “Legislative Department” is under consideration, I will not say it shall not receive my support; but I object to it here. I do not know but a question of order may be raised. The proposition has just been rejected by the committee, and it is not proper to open it again here, in my opinion. My principal objection is this—it is very important to keep the several departments of government separate and distinct, and the amendment proposes to clothe a legislative officer with executive power.

There is no force in the assertion of the gentleman that it costs ten thousand dollars to educate a Speaker. It may be true that there are persons sent to the Legislature whose education, to make them competent Speakers, would cost more than that sum; but there were always persons there competent and well qualified for the office. The assertion is an exaggeration. I, sir, once had the honor to preside over the House of Representatives as Speaker, and I am sure it did not cost that amount for my education.

Mr. BUSH was perfectly willing to listen to a discussion of any question or proposition when it could be elucidated, but he thought any more debate on this proposition unnecessary, as it had been already discussed.

Mr. BRITAIN—The proposition is a new one, and has been very little discussed. It is new in the United States, and only forced itself on me by a close observation of the evils growing out of the present system of electing a Speaker. It is the only plan I could devise for a remedy of those abuses.

I am happy, sir, to find that the honorable Chief Justice is willing to give the proposition, if offered in another article, an impartial consideration. I think, though, he is mistaken in supposing the Legislative Department to be its proper place. I have examined the article closely and find no place where it can be properly inserted. I think this the proper place for it. It proposes to make the Speaker a member of the executive department, and not of the legislative. It is contemplated to give him no vote on any question, and the privilege of speaking only in committee of the whole.

The amendment was adopted.

Mr. LOVELL moved to amend the section by striking out, “have been five years,” and inserting the word “be.”

Mr. L. said he did not know the opinion of the committee on the matter. The proposition embraced his own views only. He thought a citizen should be eligible to the office of Governor, when he possessed the necessary qualifications, without requiring him to have been five years a citizen. It could not be supposed that the delegates to a State Convention would nominate for the office an incompetent person. Suppose an individual had been a citizen four years, or four years and nine months, and circumstances rendered him the most proper person for the office, there could be no valid reason why he should be excluded from holding it.

Mr. N. PIERCE said the section allowed the election of any native citizen of the United States. The committee supposed it to be proper and advisable to insert the provision requiring five years citizenship to prevent any difficulty that might arise hereafter. In his opinion there should be a limit, but if the Convention thought otherwise—well. It seemed to him a limitation was proper. A person might be nominated and elected, who was not qualified for the office.

Mr. BUSH was opposed to the amendment, and regarded the provision as reported by the committee, a salutary one; he had no doubt experience would prove it to be so. It might be a good argument, that an incompetent and inexperienced person would never be put in nomination for the office of Governor—that such a thing would never be done. But when he looked

at the immense tide of emigration pouring into the country, the numbers coming into our own State, he thought the provision necessary. In some of the counties, this foreign population nearly hold the balance of power between the two great political parties; and the day might not be far distant when it would be entirely in their power to control the elections in those counties, and even in the State. This state of things might not occur; and he was perfectly willing that any competent naturalized citizen should hold office; but he would ask if any foreigner could prepare himself to perform the duties of Governor in less than ten years? He must be familiar with our institutions—entirely different to those to which he has been accustomed—familiar with our wants and the dispositions of the people; and although a foreigner may be as wise as any of our citizens, yet he is not so far superior as to learn our habits, wants and institutions, in less than five years.

The amendment was lost.

Mr. BAGG moved to amend by adding at the end of the section, "or over seventy years."

Mr. B. said as the committee thought proper to circumscribe on one hand, he would do so on the other. He considered a precocious young man just as good as one in his dotage.

Mr. HASCALL—I would suggest to the gentleman that the clause does not require us to have a Governor over seventy years of age.

Mr. ROBERTSON—I move to strike out "seventy" and insert "one hundred and fifty."

Mr. BAGG—The gentleman had better wait until it is *struck in*, before he moves to strike out.

The question was then taken on the motion of Mr. BAGG and lost.

Sec. 3. The Governor and Lieutenant Governor shall be elected at the times and places of choosing members of the Legislature; the persons respectively having the highest number of votes for Governor and Lieutenant Governor, shall be elected; but in case two or more shall have an equal and the highest number of votes for Governor and Lieutenant Governor, the Legislature shall, by joint vote, choose one of

the said persons so having an equal and the highest number of votes.

Mr. BRITAIN moved to amend the section by inserting after "Lieutenant Governor," wherever it occurs, the words "Speaker of the House of Representatives." Carried.

Sec. 4. The Governor shall be Commander-in-Chief of the military and naval forces of this State.

Mr. WITHERELL would like to know where the *naval* forces were.

Mr. CHURCH—There are two scows on Grand River.

Mr. KINGSLEY moved to amend the section by adding, "and he shall have power to call forth the militia to execute the laws of the State, to suppress insurrection, and repel invasion."

Mr. K. said the provision was in the present constitution, and he considered it a good one.

Mr. ROBERTS—The power is implied under the section.

Mr. WITHERELL—I think it is better to have it expressed. There can be no objection.

The motion prevailed.

Sections 5 and 6 were read and no amendments offered.

Sec. 7. He shall have power to convene the Legislature, or the Senate only, on extraordinary occasions. He shall communicate by message to the Legislature, at every session, the condition of the State, and recommend such matters to them as he shall deem expedient.

Mr. CRARY moved to strike out the words "or Senate only."

Mr. C. thought the words unnecessary. Under the constitution they were framing, all officers would be elected by the people, and as the Governor would only fill vacancies, there could be no necessity for calling the Senate together.

The amendment was adopted.

Section 8 was read and no amendment offered.

Sec. 9. The Governor shall have the power to grant reprieves, commutations and pardons after conviction, for all offences except treason and cases of impeachment, upon such conditions, and with such restrictions and limitations as he may think proper, subject to such regulations as may be provided by law, relative to the manner

of applying for pardons. Upon conviction for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the Legislature at its next meeting, when the Legislature shall either pardon, or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall communicate to the Legislature at each session, each case of reprieve, commutation, or pardon granted; stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the reprieve, commutation or pardon.

Mr. BUSH moved to amend by inserting "a," after the word "upon," so that it would read, "upon a conviction of treason," &c.; which was not agreed to.

Section 10 was not amended.

Sec. 11. If, during a vacancy of the office of Governor, the Lieutenant Governor shall be impeached, displaced, resign, die, or be incapable of performing the duties of his office, or be absent from the State, the President of the Senate shall act as Governor, until the vacancy be filled, or the disability shall cease.

Mr. BRITAIN moved to amend by striking out the words "President of the Senate," and inserting "Speaker of the House of Representatives."

The motion prevailed.

Sec. 12 was not amended.

On motion of Mr. BRITAIN,

A new section was added to stand as section 13, as follows:

"The Speaker of the House of Representatives shall, by virtue of his office, be the presiding officer of the House of Representatives. In the committee of the whole, he may debate all questions; and when there is an equal division, he shall give the casting vote."

Sec. 13. No member of Congress, nor any other person holding office under the United States, or this State, shall execute the office of Governor.

Mr. BACKUS moved to add at the end of section 13, "nor shall the Governor be eligible to any office or appointment from the Legislature, or either branch thereof, for the term for which he may have been elected."

On motion of Mr. MORRISON,

The amendment was amended by inserting after "Governor," the words "Lieutenant Governor and Speaker of the House

of Representatives."

On motion of Mr. WITHERELL,

The amendment was further amended by adding "and all votes given for either of them for any such office shall be void."

Mr. STOREY moved that the committee rise, report progress, and ask leave to sit again.

But the committee refused to rise.

The amendment as amended, was then adopted.

Sec. 14. Whenever the office of Governor or Lieutenant Governor becomes vacated, the person executing the duties of Governor for the time being, shall give notice thereof; and the electors shall, on the Tuesday next succeeding the first Monday of November next, choose a person to fill such vacancy.

Mr. BRITAIN moved to amend the section by inserting after "Lieutenant Governor," the words "or Speaker of the House of Representatives."

The amendment was adopted.

Mr. HART moved that the committee rise, report progress, and ask leave to sit again; but the committee refused to rise.

Sec. 15. The Lieutenant Governor and President of the Senate *pro tempore*, when performing the duties of Governor, shall receive the same compensation as is allowed to the Governor. When in the actual performance of his duties as President of the Senate, the Lieutenant Governor shall receive the same compensation as shall be allowed to the Speaker of the House of Representatives. The like compensation shall be allowed to the President of the Senate *pro tempore* when in the actual discharge of the duties of President of the Senate.

On motion of Mr. McCLELLAND, all after and including the words "when in actual performance," &c., were stricken out.

Sec. 16. The Great Seal of the State shall continue to be kept by the Secretary of State; and all official acts of the Governor, his approval of the laws excepted, shall be thereby authenticated.

Mr. WITHERELL moved to strike out "continue to," and to insert between "the" and "great," the word "present," in 1st line of section 16.

The motion was lost.

On motion of Mr. BRITAIN, the words "President of the Senate *pro tempore*," in 1st line of section 15, were stricken out, and "Speaker of the House of Representatives," inserted.

On motion of Mr. J. CLARK, the committee rose, reported the article back with amendments, asked the concurrence of the Convention therein, and to be discharged from the further consideration of the same:

The committee, through their chairman, reported the same back with sundry amendments, in which they asked the concurrence of the Convention; when,

On motion of Mr. McCLELLAND, the Convention adjourned.

Afternoon Session.

The Convention was called to order by the PRESIDENT.

Mr. BACKUS, by consent, offered the following:

Resolved, That a committee of five be appointed to inquire and report to this Convention the relative quantity of land received from the general government by this State, as compared with the other North-western States, and also to report a memorial to Congress on that subject.

The resolution was adopted.

The article entitled "Executive Department," being under consideration, and the question being on concurring in the amendments made in committee,

The PRESIDENT stated the question to be on concurring in the amendment offered by Mr. BRITAIN to section 2, inserting after "Lieutenant Governor," the words "Speaker of the House of Representatives, each of whom;" when

Mr. N. PIERCE said—I hope the Convention will not concur in the amendment made in committee of the whole. I have had some legislative experience, and it appears to me it would be better to leave the matter as it now stands. There are always two or three persons elected to the Legislature, competent to perform the duties of Speaker, and it is the fault of the House if they elect a poor one. It seems to me the principle is wrong. It is fixing an additional annual tax upon the people; a small sum, it is true; but still, it will be

fixing one more teat on the Michigan heifer, to suck forever. How the gentleman from Berrien, [Mr. BRITAIN,] with his conservative notions, can advocate such a measure, is really astonishing. I say, sir, the principle is wrong. Under it, the Speaker will have nothing to do but draw his pay. He will have nothing to do with the people, and be under little responsibility to them.

The gentleman says that under his proposed system they will get rid of educating a Speaker. I don't see how this can be done, unless they get a body of men, and keep him practicing all the time. How can he know the rules the House will adopt? We know certain citizens will never make good Speakers; and to assume that a State Convention would be a better judge than the House itself, of a proper officer to preside over the House, is wrong. It is no more consistent than that any school district should say who should be the teachers, without any reference to the inspectors.

The propriety of this system is urged on the ground that the President of the Senate is elected by the people. He, sir, is an Executive officer; and they are not in the same position. I was in favor of abolishing that office, but the committee did not agree with me. It is all wrong. It is fixing a tax of two hundred dollars more on the people, to be given to one man—a small sum, but still an increase of the tax.

We have been told, sir, it costs us \$10,000 a year to educate the Speaker. If so, we are very unfortunate. But this mode, it seems to me, will make two hundred dollars more. I want to know if there is any need of creating another office? We have talked about abolishing one or two of the State offices, and it seems to me, to create another, would be sinning against the Holy Ghost. It is unnecessary, improper and directly wrong.

Mr. VAN VALKENBURGH—Although I do not concur in all the views of the gentleman from Calhoun, [Mr. N. PIERCE,] I think the proposed system wrong, and am in favor of having the House elect its own Speaker. There are always men in the Legislature fully competent to perform the duties of the office,

and I apprehend, sir, they will be better qualified, or fully as well as any who may be selected for them. I consider the House of Representatives the proper body to elect its own presiding officer.

Mr. BRITAIN—Mr. President, I wish to say a few words in answer to the arguments of gentlemen. I promise not to detain the Convention long, and I hope I shall not be alone in the defence of this measure.

The gentleman from Calhoun [Mr. N. PIERCE] says: "there is no more propriety in electing the Speaker by the people than in electing a village or district schoolmaster at large by the people." Sir, if the gentleman's argument means anything, it means too much; for, under his method of reasoning, he might with equal justice and propriety take from the people the election of every officer in the State. And I here beg leave to repeat the statement made to the Convention a few days ago—that "not a single argument can be produced in favor of the election of the President of the Senate by the people, which does not apply with increased force in favor of the election of the Speaker of the House by the people."

The gentleman from Calhoun says the President of the Senate is an executive officer. My proposition makes the Speaker of the House an executive officer, and with quite as much propriety as the President of the Senate is made an executive officer. And now, if the gentleman will permit me to use his argument against him, I will give him a self-evident proposition. If the President of the Senate should be elected because in the absence or disability of the Governor, the President of the Senate becomes Governor, then it certainly follows that the Speaker of the House should be elected and become Governor in the absence or disability of the Governor and President of the Senate, and not permit the destinies of the State to pass into the hands of the President *pro tempore* of the Senate—a man appointed by the Senate, without the least regard to his fitness for the office of Governor, and a man in no way responsible to the people for the manner in which he discharges the duties of the executive office.

Mr. President, my proposition seems to be surrounded with difficulties on every

side. The gentleman from Hillsdale, for whose opinion upon most subjects I entertain so much respect, says he would not elect the President of the Senate; that he would permit the Senate to appoint one of their number, and thus save to the tax payer the salary of this useless officer. And my friend from Jackson says that persons appointed by either or by both houses of the Legislature are responsible to the people, or that they are responsible to the persons appointing them, and that the persons appointing them are responsible to the people for the appointments made, which he says amounts to the same thing.

These are objections to my proposition which I could not have anticipated, but I will endeavor to give to them all the consideration which their merit demands. In the first place, I am free to say that the President of the Senate and the Speaker of the House should both be elected by the people, or that they should both be appointed by their respective houses, as the responsibilities and duties of the two offices should be precisely similar. Now, Mr. President, can the gentleman from Hillsdale be sincere in his proposition to take from the people the election of their Lieutenant Governor; or is it one of those strokes of policy for which the gentleman is so competent, and which always do more honor to the head than to the heart, having only for its object the defeat of the proposition now before the Convention? If he is sincere, he should give himself no rest until he has taken from the people the election of that officer; and he should carry his scheme of reform still further, and relieve the people from the expense of electing their Governor, also.

I now wish to ask the gentleman from Hillsdale if he is quite sure he would save anything to the tax-payer by taking from the people the election of President of the Senate, and by withholding from them the privilege of electing a Speaker of the House? The pay of regular sessions, is, by this Constitution, limited to forty days at three dollars per day, amounting to one hundred and twenty dollars. Few members will travel more than four hundred miles in going to and returning from the seat of government, which, at ten cents a mile, amounts to forty dollars, making the

highest amount likely to be received for per diem and mileage, one hundred and sixty dollars for two years, equal to eighty dollars per year, for each of these officers.

The expenses of the last session of the Legislature were about five hundred and eighty dollars per day; the expense of future sessions may be even more than that, because each house will be more numerous than those of the last Legislature, so that the gentleman can see that one-third of a day expended by each house in electing its presiding officer would cost the tax-payer more than the entire salary for two years, from which the gentleman proposes to relieve them.

Now, Mr. President, the gentleman having, as already shown, saved nothing to the tax-payer in expense, I wish to inquire of him with what kind of presiding officers he would leave the two houses. Would he leave them with officers selected by a State Convention, and elected by the people with special reference to their qualifications for presiding officers? Would he leave them with officers responsible only to the people, and therefore at liberty to appoint the various committees of their respective houses in accordance with the requirements of public interests? Officers, who, having had two or three months after their nomination to qualify themselves for the duties of their respective stations, would be able to organize their respective houses with promptitude, and prosecute the business of the session with economy and dispatch? No, sir, but very far from it indeed.

Sir, he would leave them with officers *made*; yes sir, *made* is the word—he would leave them with officers made by a few designing men, who congregate about the Capitol a few days before the commencement of the session, for the express purpose of combining strength enough to control the various appointments to be made by the two houses—officers who, in order to secure their appointments, found it necessary to sell out all the important committees, pledge their friends for the clerkships, the sergeant-at-arms, the door-keepers, and frequently pledge themselves even for the messengers, and who must be mindful of the power that made them, even to the end of the session—officers who have been selected for their availability alone,

and without the least regard to their fitness for their respective stations, and who, having had no previous opportunity of qualifying themselves, must be, in most cases, incapable of prosecuting the business of the session with promptitude and dispatch, and remain more or less so through a considerable portion of a forty days' session.

Thus it will be seen that the gentleman would not only leave the tax payer liable to the expense of counteracting the influence of interested committees, and to the dangers of bad legislation from the same cause, but he would leave him liable for the expense incurred by delays consequent upon the inexperience of the presiding officer, which will never be less than from five to ten thousand dollars.

Will gentlemen say that Speakers are not made in the way I have described, and that the consequences stated by me are imaginary? Sir, I have never known a Speaker made in any other way, and the consequences are as sure to follow as effect is to follow its cause; and there are persons in this body who are opposed to the election of a Speaker, who know absolutely that the statements I have made are not only probable, but true. Why, sir, it is the common method of making a Speaker, and all the scheming ones know it, and that is the reason why they are opposed to the proposition.

Some gentleman says the Legislature can sit but forty days, and therefore it can make no difference. Why, sir, does not the State want anything done during the forty days session? If not, why convene the Legislature at all? If she does, then is she not deeply interested in having the business of legislation properly and promptly done?

And now, sir, one word in answer to the honorable gentleman from Jackson, who claims "that persons appointed by either House, and the members of the Houses making the appointments, are responsible to the people."

I would ask the gentleman in what way they are responsible to the people? Did the people elect them? No sir. Can the people dismiss them? No sir. Can the people of the State prevent their re-election, provided their immediate constituents are disposed to re-elect them? No sir. Then I would like to be informed what their re-

sponsibility to the people is good for. Let us illustrate for a moment. The last Legislature consisted of eighty-eight members. Let us suppose that Legislature to have had ten officers to appoint, and half a million to appropriate. Had six-elevenths of that Legislature combined and given to the two southern tiers of counties the ten officers and the half million, and had given to the five-elevenths of the State nothing, would the electors of the counties receiving the benefits of this unjust legislation censure their representatives for bringing it to them, and refuse to re-elect them on that account? Sir, the gentleman himself does not believe it. And what if the abused portions of the State were to remonstrate against the re-election of the persons robbing them, do you think the favored electors would heed them? Sir, no one is so wanting in sagacity as to believe it; and there is nothing now to prevent such a combination and such an abuse of the legislative prerogative, except the much slandered veto of the Executive, who is elected by, and consequently responsible to, the whole people. If the gentleman is not now satisfied that neither a Speaker elected by the House, nor that portion of the House electing him are responsible to the people, and that members of the Legislature are only responsible to their own constituency, it is useless for me to reason with him upon that subject; for no matter how recreant he may be to the interests of the balance of the State, none but his own constituents can hold him to an account; and if the State expect faithful and impartial services from the Speaker of the House, they must make him responsible to them by electing him themselves.

Mr. President, I have now disposed of all the objections made to my proposition; but of what consequence is it so long as the principal objection to it has not been mentioned, and of course has not been answered? It is this, sir: the proposition abridges the privileges of delegated power and restores to the people the election of one more of their agents; and who ever heard of a willing surrender of any prerogative by the representatives of the people?—I should have said “by the appointing power.”

Sir, the election of justices of the peace by the people was declared to be exceed-

ingly impolitic. The election of State officers by the people, it was said, would be exceedingly disastrous in its consequences; and the election of judges by the people!—why, the very thought was horrible—it could produce nothing but devastation and ruin. Yes, sir, since your recollection it has been gravely pretended, and some were green enough to believe it, that the people were capable of selecting agents competent to fill all of these offices with discretion and sagacity, and that the people were at the same time wholly incapable of filling these offices themselves!

Well, what has been the result of elections by the people, so far as the experiment has been tried? Why, Mr. President, it has been so entirely satisfactory that the policy has become too popular to be questioned at this time; for in every instance where appointments have been taken from delegated power and given to the people, the result has more than realized the anticipations of the most sanguine friends of the measure; and if my proposition is rejected, the most favorable construction that can be put upon the action of the Convention is, that members kept the power where it is, in order to use it hereafter.

The gentleman from Calhoun [Mr. N. PIERCE,] says, “if the House choose a bad Speaker, it is their own fault.” Sir, I admit it, but who suffers by it? who pays for the time of the House lost in consequence of an inexperienced Speaker? The gentleman may answer that at his leisure.

The gentleman says that if it would cost \$10,000 to educate a Speaker elected by the House, it would cost \$10,200 to educate one elected by the people, as the people would be as likely to elect an inexperienced or incompetent man as the House. Sir, this is an unwarrantable assumption of the gentleman, and not sustained by facts. Will the gentleman tell this Convention when the people of Michigan elected either an inexperienced or incompetent man to preside over the deliberations of the Senate. Sir, the people have always elected experienced and efficient men as presiding officers of the Senate, while the House have generally selected theirs without the least regard to his qualifications for the office.

But if the people should do what they have not yet done—select an inexperienced

man for Speaker—would he not have two months to qualify himself for the discharge of his duties—even twenty days more than a whole session? If the person elected could not, in two months, make himself sufficiently acquainted with parliamentary law to become a good presiding officer, with a few days practice, what would the gentleman expect from him, if placed in the Speaker's chair one minute after his election, without any knowledge of parliamentary law at all.

But, Mr. President, I have already continued the argument longer than I intended. I will notice one more remark, and yield the floor. It has been said that I propose this amendment, because I have never been elected Speaker. Sir, this gave me pain. I never have asked for the office of Speaker. Had I sought for it in the way in which others have obtained it, perhaps I might have obtained it. It is true, that my name has once or twice been mentioned for the office of Speaker; but I challenge any man to say that I ever asked his vote or his influence in my behalf; and I here protest against this unjust method of creating prejudices against a measure which cannot be successfully met upon its merits.

Mr. President, I submitted this proposition to the Convention in good faith, for the following purposes:

1st. To make the Speaker of the House responsible to the people, by giving his election to them;

2d. To insure the dispatch of business, by securing to the House an experienced and efficient presiding officer;

3d. To relieve the House from the dictation of designing men, and secure the appointment of such committees as the public interest demands;

4th. To provide an officer chosen by the people, to execute the duties of Governor during the absence or disability of the Governor and Lieutenant Governor.

Mr. J. CLARK—I am certain the charge, if made against the gentleman, [Mr. BRITAIN,] is wrong. I am confident he has never thought of such a thing as offering himself for Speaker. He has never offered himself to a lady, even.

The ayes and nays were demanded, and resulted as follows:

YEAS—Messrs. Axford, Bagg, Beards-

ley, Beeson, Britain, Burns, Chandler, Choate, Comstock, Conner, Eastman, Gardiner, Green, Hart, Hascall, Hathaway, Hixon, Kingsley, Leach, McLeod, Morrison, Mosher, Mowry, Newberry, O'Brien, Orr, J. D. Pierce, Prevost, Raynale, Redfield, Robertson, Skinner, Storey, Sturgis, Town, White, Williams, Witherell—38.

NAYS—Mr. W. Adams, Alvord, Anderson, Arzeno, Backus, Barnard, J. Bartow, Alvarado Brown, Ammon Brown, Asahel Brown, Bush, Butterfield, Carr, Chapel, Church, J. Clark, S. Clark, Cook, Cornell, Crary, Crouse, Danforth, Daniels, Desnoyers, Dimond, Fralick, Gale, Gibson, Graham, Hanscom, Harvey, Lovell, McClelland, Moore, N. Pierce, Roberts, E. S. Robinson, Rix Robinson, Soule, Sullivan, Sutherland, Tiffany, Van Valkenburgh, Wait, Walker, Webster, Wells, Whipple, Whittemore, President—50.

So the Convention refused to concur in the amendment.

The amendment to section 3, inserting after the words "Lieutenant Governor," wherever they occur, "Speaker of the House of Representatives," was also non-concurred in.

The amendment to section 4, adding at the end thereof, "and he shall have power to call forth the militia to execute the laws of the State, to suppress insurrection and repel invasion," was concurred in.

The amendment to section 7, striking out the words, "or Senate only," was also concurred in.

The amendment to section 11, striking out "President of the Senate," and inserting "Speaker of the House of Representatives," was non-concurred in; and the Convention also refused to concur in the amendment adding a new section, to stand as section 13.

The amendment to section 13, offered by Mr. BACKUS, as amended, on motion of Mr. MORRISON and of Mr. WITHERELL, being under consideration, the words "Speaker of the House of Representatives" were stricken out.

Mr. HANSCOM moved to amend the amendment, by striking out the words "Lieutenant Governor."

Mr. H. said the Lieutenant Governor received the enormous salary of SIXTY dollars. The provisions of the amendment would completely disfranchise that

officer, and it might be difficult to get a competent person to fill the office.

The motion was negatived.

The amendment as amended was then concurred in by yeas and nays, as follows:

YEAS—Messrs. W. Adams, Alvord, Anderson, Arzeno, Axford, Backus, Bagg, Barnard, J. Bartow, Beardsley, Britain, Alvarado Brown, Ammon Brown, Asahel Brown, Burns, Bush, Butterfield, Carr, Chandler, Choate, Church, J. Clark, S. Clark, Comstock, Conner, Cornell, Crary, Crouse, Daniels, Desnoyers, Dimond, Eastman, Fralick, Gale, Gardiner, Gibson, Graham, Green, Hart, Harvey, Hascall, Hathaway, Hixon, Kingsley, Leach, Lovell, Marvin, McClelland, Moore, Morrison, Mosher, Mowry, Newberry, O'Brien, Orr, J. D. Pierce, N. Pierce, Prevost, Redfield, Robertson, E. S. Robinson, Rix Robinson, Skinner, Soule, Sullivan, Sutherland, Town, Van Valkenburgh, Walker, Webster, Wells, White, Whipple, Whittemore, Williams, Witherell, President—77.

NAYS—Messrs. Chapel, Cook, Danforth, Hanscom, McLeod, Raynale, Roberts, Storey, Tiffany, Wait—10.

The amendment to section 14 was non-concurred in.

In the amendment to section 15, striking out "President of the Senate *pro tempore*," and inserting "Speaker of the House of Representatives," the Convention refused to concur, and the amendment to the same section, striking out all after and including the words "when in the actual," &c., was concurred in.

Mr. WILLIAMS moved to further amend section 7, by striking out "to the Legislature at every session," and inserting "at such times as he may deem necessary and proper to the existing Legislature, and at the close of his official term of service, to the next Legislature."

Mr. W. said he made the motion because he thought the Governor, whose term of service was expiring, was the proper person to communicate a message to the Legislature, as he must be more familiar with the condition and wants of the State than a new incumbent.

Mr. WITHERELL—I am very glad to see the gentleman coming to the old track. Gov. Mason thought this the proper course, and sent in a message to the Legislature;

but there was a whig majority, and they refused to receive it.

Mr. WILLIAMS—I thought then as I think now, that the retiring Governor should make an expose of the condition of the State. If I had censured Gov. Mason at the time referred to, it would have been because of the want of taste exhibited on the occasion.

The amendment was carried.

Mr. McCLELLAND moved to strike from the second section the last clause, as follows: "nor shall any person be eligible to the office of Governor who shall not have attained the age of thirty years."

Mr. McC. said he would merely state that the question was fully discussed in the Convention of 1835, and it was then decided to strike out a similar provision from the peculiar circumstances in which they were placed, and leave it to the people to share the responsibility of selecting any one they thought proper.

As the name of Gov. Mason had been censoriously mentioned in the Convention, and in connection with the five million loan, he would say in reference to him, that he [Mr. McC.] believed a more honest man never lived. If he had any fault it was the fault that was common to every one who was anxious to carry out the gigantic system of internal improvement so popular at that day. He [Mr. McC.] knew that no man could have been more anxious to be rid of all and any connection with the five million loan than was Gov. Mason.

Mr. McLEOD, (in his seat)—What magic is there in *thirty*? Some persons at that age begin to decline in intellectual capacity.

Mr. J. D. PIERCE—I believe that Gov. Mason was honest, but if he had had the experience of older men, he would not have gone astray as he did. As we are shutting up the gaps, why not shut up this? I am in favor of the provision proposed to be stricken out, believing it to be salutary. In the heat of party excitement we might nominate a boy.

Mr. HANSCOM—Gov. Mason has been alluded to, but no allusion has been made to the Governor who succeeded him. Gov. Mason performed the duties of the office with as much fidelity as Gov. Woodbridge; and I believe if a faithful contrast of the two administrations was made, the result

would be favorable to the former. Gov. Mason was young, but the disastrous evils of that day are to be attributed to the Legislature more than any other source.

Mr. SULLIVAN—I do not think it is necessary we should go back to past administrations to settle this question.

Mr. WHIPPLE—In deciding this point, Mr. President, it may be well enough to recur to the former constitutional provision and the action then had. I will state, sir, that the question was canvassed by the committee, and they thought that ripeness of intellect and correctness of judgment, so necessary to the Executive, were not generally attained below the age of thirty years. Some men attained it at the age of twenty-five, and such was the case of the individual who had been alluded to—Gov. Mason.

There was such a provision in the article reported in the Convention of 1835, and I remember the motion to strike it out was made by a member now on this floor, [Mr. CRARY.] Mr. Mason had many warm friends in the Convention, and some yielded their judgment to personal friendship. Owing to our difficulties with Ohio, the excitement growing therefrom, and various other causes, it was thought best that Mr. Mason should be the next Governor, and the provision was stricken out to meet his case.

I, sir, have no objection to some limit; but it is not probable that any one will ever be nominated who will prove incompetent on account of youthful age.

I believe that a purer and better man never lived than STEVENS THOMSON MASON.

Mr. WITHERELL cared very little whether the limit was put at twenty-five, thirty, or thirty-five years, but thought some experience was necessary. When Michigan was first organized as a State, there was much clashing excitement on various matters, and a little war, brewing with Ohio. Owing to the want of facilities in travelling and want of good roads, the various settled portions of the State were little acquainted with each other. Gov. Mason was little known. He was a young man of noble feelings; generous impulses and excellent virtues—but he erred deeply in conducting the financial affairs of the State. At that time the in-

fluence of the Governor in filling all offices by appointment, &c., was very great; but as the power of appointment was taken away, to a great extent, he thought the position of Governor was not so influential as heretofore, and the limitation to thirty years of age was not very important. Talleyrand and the Duke of York had conferred upon them high stations in their infancy, but such as at that time of life they could not discharge. We wanted no such puerile officers.

Mr. CRARY said—As the gentleman from Berrien [Mr. WHIPPLE] had made allusion to a motion made by himself [Mr. C.] in the Convention of 1835, he would state that he did make the motion, and his opinion in regard to the correctness of it remained unchanged.

The gentleman from Wayne [Mr. WITHERELL] had alluded to some Duke. He [Mr. C.] would refer to Pitt and Bonaparte. If we could raise such men here let us do it. He knew no rule by which experience, matured judgment and ripeness of intellect should be attained by reaching the age of thirty years. If, at the age of twenty-five, an individual had as much experience and other qualifications as one of thirty years, he saw no reason why he should be excluded from the office.

Mr. MOORE was decidedly in favor of retaining the provision, and surprised to hear gentlemen express themselves in favor of striking it out. He thought there were enough over thirty years of age to fill the office, and always would be.

Mr. CHURCH—The illustrations made by the examples quoted by the delegate from Calhoun [Mr. CRARY] are very unfortunate. I regard the administration of Pitt, the younger, as the most disastrous in its effects recorded in the annals of England; and had not the youthful ambition of Napoleon been fired into phrenzy by his splendid military successes, he would not have perished miserably upon the Isle of St. Helena.

The question was then taken on the motion to strike out, and resulted as follows:

YEAS—Messrs. W. Adams, Alvord, Anderson, Beardsley, Choate, Cook, Crary, Eastman, Gibson, Hanscom, Hart, Hascall, Leach, Marvin, McClelland, McLeod, Morrison, J. D. Pierce, Raynale, Roberts, Robertson, E. S. Robinson, Soule, Storey,

Sutherland, Van Valkenburgh, Walker, Webster—28.

NAYS—Messrs. Arzeno, Axford, Backus, Bagg, Barnard, J. Bartow, Beeson, Alvarado Brown, Ammon Brown, Asahel Brown, Burns, Bush, Butterfield, Carr, Chandler, Chapel, Church, J. Clark, S. Clark, Comstock, Conner, Cornell, Crouse, Danforth, Daniels, Desnoyers, Dimond, Fralick, Gale, Gardiner, Graham, Green, Harvey, Hathaway, Hixon, Kingsley, Kinne, Lovell, Moore, Mosher, Mowry, Newberry, O'Brien, Orr, N. Pierce, Prevost, Redfield, Rix Robinson, Skinner, Sullivan, Tiffany, Town, Wait, Wells, White, Whipple, Whittemore, Williams, Witherell, President—60.

So the proposed amendment was negatived.

Mr. TIFFANY moved to amend section 8 by striking out the words "a contagious," before "disease;" and the same prevailed.

On motion of Mr. McLEOD, the words "after its adjournment" were stricken out of the 2d line of section 8.

Mr. BARNARD moved to strike out "dangerous," in the same section, and insert "endangered;" which did not prevail.

Mr. J. D. PIERCE moved to amend the same section, by inserting after "Legislature," the words "after their adjournment;" but the motion was lost.

Mr. VAN VALKENBURGH submitted the following as a substitute for section 8:

"He may direct the Legislature to meet at some other place than the seat of government, if it shall become dangerous from a common enemy or from disease."

Which was not adopted.

Mr. BEESON offered the following as a substitute for section 8:

"He may direct the Legislature to meet at some other place than the seat of government, if that shall become, when the Legislature are not in session, dangerous from a common enemy or disease."

Which was lost.

Mr. BRITAIN moved to amend sec. 1, by inserting after "Lieutenant Governor," the words, "Speaker of the House of Representatives, each of whom."

Mr. B. said he made the motion barely to remark, and call the attention of the Convention to the fact, that at the last ses-

sion of the Ohio Legislature, and of Congress, some four or five weeks had been uselessly wasted in attempts to elect their Speaker.

Mr. B. then withdrew his amendment.

The article entitled "Executive Department" was then ordered engrossed for a third reading.

Mr. WHITE moved that the article be printed as amended; which motion did not prevail.

On motion of Mr. CRARY, the Convention resolved itself into committee of the whole, on the article entitled "Education," Mr. S. CLARK in the chair.

Sec. 1. There shall be elected at each general election by the qualified electors of the State, a Superintendent of Public Instruction, who shall hold his office for the term of two years, and shall have the general supervision of public instruction, and whose duties shall be prescribed by law.

Mr. WALKER moved to amend by striking out all to the word "Superintendent" and inserting "The," and also by striking out "who shall hold his office for the term of two years," and by striking out "whose" before the word "duties," and inserting "his." Carried.

Sec. 2. The proceeds from the sale of all lands that have been or hereafter may be granted by the United States to this State, for the support of schools, shall be and remain a perpetual fund, the interest of which, together with the rents of all such lands as remain unsold, shall be inviolably appropriated to the support of primary schools throughout the State, and shall be annually distributed for such purpose, upon such fair and equitable basis as shall be provided by law.

Mr. HANSCOM moved to amend by striking out the words "upon such fair and equitable basis," and inserting "in such manner." Lost.

Sec. 3. The Legislature shall establish by law, a system of primary schools, by which such schools shall be kept in each and every school district, for at least three months in each year, free and without any charge for tuition to all children between the ages of four and eighteen years, and shall provide that any deficiency that may exist after the distribution of the primary school interest fund, shall be raised in the

several townships and cities, by a tax upon the whole taxable property in such townships and cities respectively. And the English language, and no other, shall be taught in such schools.

Mr. WALKER moved to strike out the words "free and." Carried.

On motion of Mr. WILLIAMS, the words "by which," before the word "such," and the words "and shall provide that" were stricken out.

On motion of Mr. SKINNER, the committee rose, reported the same back to the Convention, and asked and obtained leave to sit again.

The PRESIDENT announced the committee under resolution in relation to government land, &c., Messrs. BACKUS, CHURCH, LOVELL, BARTOW and GRAHAM.

On motion of Mr. LOVELL, the Convention adjourned.

WEDNESDAY, (21st day,) June 26.

The Convention met pursuant to adjournment, and was called to order by the PRESIDENT.

Prayer by the Rev. Mr. MERRILL.

PETITIONS.

By Mr. STOREY: of Samuel Higby, Leander Chapman and 38 others, citizens of Jackson county, praying that the Judges of the Circuit Courts may be Judges of the Supreme Court.

Referred to the committee of the whole.

By Mr. ARZENO: of H. V. Mann and 40 others, citizens of Monroe county, praying that the right of suffrage be extended to persons of color.

Referred to the committee of the whole.

RESOLUTIONS.

On motion of Mr. McCLELLAND,

Resolved, That the committee on the mode of revising and amending the constitution be instructed to report an article designating the time of election for the several officers mentioned in this constitution.

Mr. ALVORD submitted the following:

Resolved, That when this Convention adjourn on Monday next, July 1st, the same stand adjourned until Saturday, July 6th.

Mr. ROBERTS moved a call of the House, and the call being sustained, the

roll was called, and Messrs. BARNARD, AMMON BROWN, BURNS, J. CLARK, O'BRIEN and N. PIERCE were found absent without leave.

On motion of Mr. ROBERTS, all further proceedings under the call were dispensed with.

Mr. ALVORD moved the previous question, which was sustained.

The question being "shall the main question be now put?" it was decided in the affirmative.

The yeas and nays being ordered, the resolution was adopted by the following vote:

YEAS—Messrs. Alvord, Anderson, Backus, J. Bartow, Beeson, Alvarado Brown, Asahel Brown, Burns, Bush, Chandler, Chapel, Choate, S. Clark, Comstock, Daniels, Desnoyers, Dimond, Eastman, Gale, Gardiner, Gibson, Graham, Green, Hanscom, Hart, Harvey, Hascall, Kinne, Leach, Lee, Marvin, McLeod, Moore, Morrison, Mowry, O'Brien, J. D. Pierce, Prevost, Roberts, M. Robinson, Sullivan, Sutherland, Tiffany, Van Valkenburgh, Warden, Webster, Wells, White, Whipple, Whittemore, Witherell, President—52.

NAYS—Messrs. P. R. Adams, W. Adams, Arzeno, Axford, Bagg, Beardsley, Britain, Butterfield, Carr, Conner, Cook, Cornell, Crary, Crouse, Danforth, Fralick, Hathaway, Hixon, Kingsley, Lovell, McClelland, Mosher, Newberry, Orr, N. Pierce, Raynald, Redfield, Robertson, E. S. Robinson, Rix Robinson, Skinner, Soule, Storey, Town, Wait, Walker, Williams, Woodman—38.

Before an announcement of the result,

Mr. CRARY moved that Messrs. J. D. PIERCE and SOULE be excused from voting; but the Convention refused to excuse, and the delegates recorded their votes as above.

Mr. CHAPEL moved a reconsideration of the last vote taken.

The question being upon reconsidering,

Mr. CHAPEL said—Nothing has surprised me more than to see the determination to adjourn. They have not only wished to adjourn, but they have labored to shut out debate and all expression of opinion, and adjourn the people's Convention to an indefinite period. And this is to accommodate whom? A minority of this Convention, who wish to adjourn, and at

the same time retain their per diem allowance. The expenses of this Convention are at least \$400 per day, making an amount, if we adjourn for two weeks, of nearly \$6,000, besides leaving the business that we have been engaged in, in an open and unfinished state. If we adjourn, I will ask members if we shall not lose the labors of the last two weeks? And whether, when we come back, we shall not travel over the whole business again? That will be the legitimate result if we adjourn over for one week, undoubtedly. It is bad policy. It will detain here the farmers and millers in the busiest season of the year. Harvest will overtake us; seed time will follow; and this Convention will have fewer members than at present. Business at that time will compel the absence of members, who can remain now. There is no good reason why we should adjourn; and it is advocated by those who can best afford to sit in this Convention; and I can conceive no other reason for this adjournment, than that the movers wish to extend their sittings, and receive the largest amount of pay. It is our duty to employ every moment that we possibly can, in forming this new constitution, close up our business, and return home. We are told that the funds of the treasury are low; that there is hardly enough money to pay postage; and I am surprised that, with this state of facts, members will get up and debate this question, when our means are so scanty. Do the delegates expect, by going home, to get more light on any question? No sir. Then what is the object? The per diem allowance? If so, do the delegates expect that the people will sustain them?

Why do members go to the delegates from Ingham, and say, your capital is in danger if you don't go for an adjournment?

Mr. DANFORTH—I call the gentleman to order.

Mr. CHAPEL—It is proper, perhaps, to mention the improper influences which have such an unfortunate effect upon this Convention. I am bound to do all that I can to prevent an adjournment. I can say a great deal; that a great expenditure will be incurred; that we shall be denounced by the public press. And I call upon the old men; I call upon the true men, to set this matter right. They should do it be-

cause the interests of the State demand it. I hope the vote will be reconsidered.

Mr. ALVORD—The last argument is the most potent—the press is going to be down upon us, as the gentleman fears, unless the vote is reconsidered, and that the mighty press will crush him to the ground. It looks like Buncombe. He has a mighty regard for the people's money. When gentlemen are always talking about the dear people, in my opinion, they think and talk merely for effect.

Then, sir, the officers of the Convention, they probably have no business at home. Well let them stay here; but probably they, as well as others, wish to see their friends. I know that almost the entire delegation from Wayne wish to go home, and I know that the gentlemen who voted against it, want to go home, and if this Convention keeps in session, will go home. We have been here one month, secluded from the world—shut out from its cares and anxieties. We have had important measures before us, and we do not know the feelings of our constituents. We do receive the daily papers from Detroit, although an effort was made to preclude our obtaining them; but by the good sense of the Convention, the resolution was rescinded, and we yet receive them.

The press is silent upon our most important measures. I notice that it is exceedingly non-committal upon the grand jury question. I do not apprehend any overpowering, crushing influence of the press, even if we do adjourn for a week. I hope that this vote will not be reconsidered. I am surprised that the gentleman himself wishes to go home; and I would ask him if he would be so foolish as to refuse his per diem allowance, if he goes home for a few days?

Mr. CRARY—I wish to give my reasons for not wishing to adjourn. I believe this Convention can finish its labors and go home by the middle of July. I think that if we adjourn, we shall be detained until August. We shall be compelled to take some little time to know where we are; then, feeling relieved that we have been home, we shall not be so attentive to business; and so the expense and the time will be nearly double to what it would otherwise be. I find that the first Convention was in session but little over six weeks;

and I think we might with industry close our labors in the same time.

Mr. WHITE—I voted for the adjournment, and did so, because I thought that an adjournment of a week would consume less time than the never ceasing talk of adjournment. The gentleman from Calhoun says that the first Convention finished up its business in six weeks. We know, sir, what ruinous expense we have incurred by hasty legislation, and we should at any rate have learned experience enough not to use excessive haste. If we were to do the remainder of our work as we did yesterday, we might finish the constitution in a week, by bringing the articles in committee of the whole, reporting them back to the Convention, and passing them blindly. I venture to say that there is not a gentleman on this floor that can tell what was embraced in the article that was passed yesterday. We can get through the business in that way, but it will not be economy to do so. The mind of this Convention is agitated with this question—important questions are at issue. There may be good reasons for wishing for an adjournment; members may wish to see their constituents before finally voting; while the expense will be as nothing, compared to the evils which may come from hasty legislation. I therefore hope that the vote will not be reconsidered.

Mr. FRALICK—I have uniformly voted against adjournment, and I hope that the vote will be reconsidered. Some members may wish to go home, and the Convention has heretofore uniformly given leave. I have always voted in the affirmative on the question of leave of absence being granted. I may want to go home, but I do not want the business of the Convention to stand still during that time.

I do not think that if we adjourn the people will support us in this matter. I do not think that it is good policy. We have a large majority present, and I think we shall find it so throughout the entire session; and by remaining we shall probably adjourn in time to give gentlemen an opportunity of attending to their crops.

Mr. REDFIELD—I have been and I am still opposed to the adjournment. We are now fully engaged in our work; our minds are well settled; while, if we adjourn, it will produce a disarrangement and

delay. If we adjourn for one week, two will be lost, and it will throw the session forward to a period when we ought to be at home. For myself, as a farmer, I can say that all the labor we can bestow is required to secure our crops; and I hope the Convention will reconsider this vote. If gentlemen wish to go home, I have no objections; but I doubt the propriety of a general adjournment.

Mr. WALKER—I wish to understand the position of the question before the Convention.

The PRESIDENT—The resolution that the Convention stand adjourned from Monday to Saturday was carried, and the question now is upon the reconsideration of the vote by which it was adopted.

Mr. WALKER—I have heard no sufficient reason assigned for such adjournment, and to my mind the argument of my colleague [Mr. CHAPEL] is unanswerable, and I hope the resolution will be reconsidered. If the Convention had been disposed to adjourn at their own expense, in accordance with an amendment to that effect offered the other day by myself, the measure would have been far less objectionable than in its present shape. If the interests of our constituents require an adjournment, then it should be at the public expense; but I must confess that my comprehension is too dull to see how the public weal is to be promoted thereby.

But the resolution is, in its present shape, highly objectionable in other respects. It gives but four days intermission between the day of adjournment and the re-assembling of the Convention—a length of time insufficient to allow the delegates from Macomb and many other counties, to go and return, without allowing them even a moment's time to remain at home. It would, perhaps, give me as great pleasure as any one, to visit my constituents and friends; but when I am to get but a mere glimpse of them, by riding two hundred miles in a burning sun, and over "corduroy" roads, it is asking too much of us. It would be "paying too dear for the whistle." No, sir; if an adjournment must be had, let it be for a reasonable time, to accommodate all; and let it be at the individual expense of the members of this Convention.

Sir, I am opposed to this system of pet-

ty larceny—of stealing from the State for our own convenience and our own interest, even a single day of that time for which we are employed and paid to work for the people. We have been sent here to stop the leaks—to diminish the freight—and to put new spars into the ship of State; and not to scuttle and sink the vessel. I have been surprised at the vote of some of our two dollar a day men, who have supported this adjournment. We have been accused of being parsimonious in this matter. Sir, I think that those who would adjourn this Convention for four or any other number of days, at the expense of the State, are themselves most subject to the charge of parsimony, and with wearing pantaloons with pockets too small to admit their own hands, but sufficiently capacious to hold twelve dollars of the money of the State, for which they have performed no service.

By remaining at our post, and using the utmost dispatch which the importance of the business before us will admit of, we shall necessarily have to protract the session to a length greatly beyond that which was anticipated, either by ourselves or our constituents, and into a season of the year when many of the members will necessarily have to be absent to attend to their harvest. We should also bear in mind the fact, that the sickly season is approaching, and that it will, on that account, be hazardous to waste at present any time that can be employed in bringing our duties to as speedy a termination as possible. I believe that a quorum for the transaction of business are willing to remain, and no one will complain if others shall be absent for a few days, if the business of the Convention is not interrupted or suspended. I do hope, therefore, that the resolution will be reconsidered and rejected.

Mr. HANSCOM—We are in a fair way of discussing this question for as long a time as the proposed adjournment. I therefore call the previous question.

The call for the previous question being sustained, the main question was ordered to be put.

The yeas and nays having been ordered, the motion to reconsider was lost, as follows:

YEAS—Messrs. W. Adams, Anderson, Arzeno, Axford, Bagg, Beardsley, Brit-

ain, Ammon Brown, Bush, Butterfield, Chapel, Church, Conner, Cook, Cornell, Crary, Crouse, Fralick, Hathaway, Hixon, Kingsley, Lovell, McClelland, Mosher, Newberry, Orr, J. D. Pierce, N. Pierce, Raynale, Redfield, Robertson, E. S. Robinson, Rix Robinson, Skinner, Soule, Storey, Town, Wait, Walker, Warden, Williams, Woodman—42.

NAYS—Messrs. Alvord, Backus, J. Bartow, Beeson, Alvarado Brown, Asahel Brown, Burns, Carr, Chandler, Choate, S. Clark, Comstock, Danforth, Daniels, Desnoyer, Dimond, Eastman, Gale, Gardiner, Gibson, Graham, Green, Hanscom, Hart, Harvey, Kinne, Leach, Lee, Marvin, McLeod, Moore, Morrison, Mowry, O'Brien, Prevost, Roberts, M. Robinson, Sturgis, Sullivan, Sutherland, Tiffany, Van Valkenburgh, Webster, Wells, White, Whipple, Whittemore, Witherell, President—49.

Mr. WILLIAMS offered the following resolution:

Resolved, That no pay shall be allowed to the members of this Convention between Monday, July 1st, and Saturday, July 6th, for which period the Convention stands adjourned, except to those members who remain at the capital in attendance upon their duties.

Mr. WILLIAMS said he was a genuine Yankee; and where he was born they had an old saying,—“sauce for the goose is sauce for the gander.” Now, we have heard a great deal of declamation about cost and expense. Why, then, when we have had other questions under discussion, gentlemen were so piteously sympathetic that they quivered with emotion from the tops of their heads to the soles of their feet, at the very idea of touching the people’s money. He wished to test their sincerity. The other day, the annual cost of the grand jury, some \$3,800, was ample cause for its extinction. He had kept school, as well as other gentlemen who had boasted of the fact, and learned to cypher as far as single rule of three, and would propose a sum to the Convention. We propose to adjourn from Monday to Saturday; and we all know that nothing can be done the Saturday previous, or the Monday following the period embraced. Our daily expenses are at least \$400. If, therefore, we take pay for eight days, we shall take \$3,200 from the public treasury. The sum

he proposed, was this: If an expense of \$3,800 is adequate cause for the destruction of the whole grand jury, what does the State gain by paying \$3,200 to us for nothing?

Other twaddle had been current here. We had heard a great deal of this and that being hostile to the genius of our republican institutions. Now, he regarded this pushing our arms to the elbows into the public treasury, and dragging out \$3,200 for no services, as decidedly hostile to the genius of our republican institutions. For himself, he had got tired of this talk and pretension. He offered the resolution to test the sincerity of gentlemen. He intended to call the ayes and noes. Let members show their faith by their works.

"Who drives fat oxen should himself be fat."

If "buncombe" is to be manufactured, let a part of the cost come out of their own pockets. He was not making "buncombe," and would be glad to have his resolution and remarks obliterated from the journal if possible; but he was determined to have gentlemen show their hands on this question, whatever imputation he might be under.

Mr. GALE—If the gentleman will so far modify his amendment as to include all who have been absent, or who may be absent, I will vote for it. But it does surprise me to see those who have been absent, and those who declare that they mean to be absent, take the course that they do.

By adjourning a few days it gives all an opportunity of going home; and where is the impropriety when many have gone, and more are going? Some, I know, are under the absolute necessity of going home, while the important matters we have under consideration require the action of the whole house. Another thing is granted: there will not be a quorum present during the week of the fourth. It has been urged that we are to adjourn for eight days. If the gentleman so reads the resolution, his understanding of the matter is different from mine.

A MEMBER—You won't at the end of four days have a quorum.

Mr. GALE—I don't so understand it. I am talking about the resolution, not for buncombe. There has been a great deal said for buncombe—the dear people—the

people's money. Some have drunk pretty deeply of the people's money; too much so to make any remarks.

Mr. N. PIERCE—I hope the motion to reconsider will prevail, and that at present the Convention will not adjourn. I suppose that more than half the members are farmers, and expect to harvest this summer, and have had an idea that this business would be through before that time. If that is not possible, it would suit many members better to adjourn a week at that period. If I go home I can at present do no business. Some members want to celebrate the birthday of the Union. It seems to me that I can celebrate Independence as well here as at home.

Mr. WEBSTER moved to amend by adding: "and that no per diem be paid to those who have been or may be absent, except such absence was occasioned by sickness of himself or some member of his family."

Mr. LEACH moved that the resolution and amendment be indefinitely postponed.

Mr. BRITAIN—I have hardly contributed my part to this interesting discussion. It has occupied a good share of the time of the House—calling it from its legitimate business—and now the mover has succeeded in getting the previous question called, to prevent, as he says, the waste of the time of the House.

The gentleman from Macomb has given us his views, and, like him, I cannot see that the public interest requires an adjournment. A motion was offered a few days since, that the members, during the time of adjournment, should receive no per diem allowance, which passed almost unanimously; but it was only an amendment to an amendment, and then the amendment as amended was lost. A capital manœuvre, certainly—first to amend the amendment so as to receive no pay, and then to reject the amendment as amended—and thus get it out of the way of a new resolution for adjournment, one by which members can draw pay, because pay is not prohibited; and thus enable the same members who voted against receiving pay, in order to stand right with the people upon the journals, to vote pay into their pockets during adjournment, without having it appear upon the journals

at all; as the vote will be for the adjournment only.

The gentleman from Wayne thinks the gentleman from Macomb will not be so foolish as to reject his per diem allowance. I presume the gentleman from Wayne will not.

Mr. ALVORD.—The gentleman may rest assured of that.

Mr. BRITAIN.—I wish to ask the gentleman from Wayne what the people expect at the hands of this Convention? Do they not expect that the evils of extravagant expenditure shall be corrected? If there is any one thing demanded at our hands, it is to be relieved from the burthens of excessive taxation. And how shall this be accomplished? By receiving our per diem when we render no services; or by spending the time of the Convention in the manner we have for the last week, in debating about adjournments; thereby justifying future Legislatures in an extravagant waste of time and in drawing money for services not rendered? I apprehend not. Last winter the Legislature adjourned for three days, that being the longest time authorized by the constitution, and did not get together again for six or eight days; and this cost the State over \$3,000. This is not right and should be corrected. But how can we do it if we do not correct our own practices? Can we go home and say we have prohibited future Legislatures from adjourning and drawing pay, when we have been guilty of the same impropriety ourselves? I think not; it is our duty to set such an example that future Legislatures may be guided by it. I shall vote for the amendment, and then for the principal resolution.

Mr. McCLELLAND moved the previous question; and the same being seconded, the main question was ordered to be now put.

The main question being first on the amendment proposed by Mr. WEBSTER, the same was agreed to.

The question now recurring on the adoption of the resolution as amended,

Mr. AXFORD called for the yeas and nays; and the same being ordered, the resolution was lost, by a tie vote, as follows:

YEAS—Messrs. W. Adams, Anderson, Axford, Backus, Bagg, Beardsley, Britain, Burns, Bush, Butterfield, Chapel, Choate,

Church, Conner, Cook, Cornell, Danforth, Fralick, Gardiner, Gibson, Hanscom, Hathaway, Hixon, Lee, Marvin, McClelland, Morrison, Mosher, Mowry, Newberry, O'Brien, Orr, N. Pierce, Raynale, Redfield, Robertson, E. S. Robinson, Rix Robinson, Sturgis, Town, Walker, Warden, Whipple, Williams, Witherell—45.

NAYS—Messrs. Alvord, Arzeno, Barnard, J. Bartow, Beeson, Alvarado Brown, Ammon Brown, Asahel Brown, Carr, Chandler, S. Clark, Comstock, Crary, Crouse, Daniels, Desnoyers, Dimond, Eastman, Gale, Graham, Green, Hart, Harvey, Kinne, Leach, Lovell, McLeod, Moore, J. D. Pierce, Prevost, Roberts, M. Robinson, Skinner, Soule, Storey, Sullivan, Sutherland, Tiffany, Van Valkenburgh, Wait, Wells, White, Whittemore, Woodman, President—45.

Mr. HASCALL offered the following:

Resolved, That during the adjournment voted this morning, the per diem allowance of members and officers of this Convention be suspended, and no charge be allowed therefor.

Pending which, Mr. HANSCOM moved that the Convention resolve itself into a committee of the whole on the article entitled "Education."

And the yeas and nays being ordered, the result was as follows:

YEAS—Messrs. Alvord, Anderson, Arzeno, Backus, Bagg, Barnard, J. Bartow, Beeson, Alvarado Brown, Asahel Brown, Burns, Bush, Butterfield, Carr, Chandler, Choate, Comstock, Crary, Daniels, Desnoyers, Dimond, Eastman, Fralick, Gale, Graham, Hanscom, Hart, Harvey, Kingsley, Kinne, Leach, Lee, Lovell, Marvin, Moore, O'Brien, Orr, J. D. Pierce, Prevost, Raynale, Roberts, E. S. Robinson, M. Robinson, Skinner, Sturgis, Sullivan, Sutherland, Van Valkenburgh, Wait, Webster, Wells, White, Whittemore, Witherell—54.

NAYS—Messrs. W. Adams, Axford, Britain, Ammon Brown, Chapel, Church, S. Clark, Conner, Cook, Cornell, Crouse, Danforth, Gardiner, Gibson, Green, Hascall, Hathaway, Hixon, McClelland, McLeod, Morrison, Mosher, Mowry, Newberry, N. Pierce, Redfield, Robertson, Rix Robinson, Soule, Storey, Tiffany, Town, Walker, Warden, Whipple, Williams, Woodman, President—38.

So the Convention resolved itself into a committee of the whole on the article entitled "Education," Mr. S. CLARK in the chair.

Sec. 3. The Legislature shall establish by law, a system of primary schools, by which such schools shall be kept in each and every school district, for at least three months in each year, free and without any charge for tuition, to all children between the ages of 4 and 18 years; and shall provide that any deficiency that may exist after the distribution of the primary school interest fund, shall be raised in the several townships and cities by a tax upon the whole taxable property in such townships and cities respectively. And the English language and no other shall be taught in the schools.

Mr. WILLIAMS moved to strike out "that may exist," and insert "in means."

And a division of the question being demanded, the committee agreed to strike out.

Mr. FRALICK—It appears to me that the system proposed does not come up to what we require. I have drawn up a substitute for section 3, which, if in order, I will read, although I do not know that it will meet the views of the committee.

Mr. WILLIAMS—It is in order.

Mr. FRALICK—I will at present merely read my substitute. I think that the words "a deficiency of means" leaves the matter too indefinite. When will they ascertain that there is a deficiency of means so as to provide for the payments that are due? Not until the first of June. Well, they cannot raise it until next winter—the school master will then have rendered his services one year previous. I think that will be great injustice. Next, I think that the system is wrong. I am in favor of raising a tax upon the scholar; then you will have something that you can get at, and have it in the treasury by the first day of February; then you can pay it in March, when you want to pay the teachers. I do not mean upon the scholar, but upon the property regulated by the number of scholars. Thus, there are 500 scholars in a township, and there are \$500 to be raised. Let the town clerk so report. I propose to amend in this form: "to strike out all after the word "shall," in the first line, and insert "provide for a system of primary schools

by which a free school shall be kept up and supported in each school district at least three months in every year; and any school district neglecting to keep up and support such a school, may be deprived of its equal proportion of the interest of the public fund, and the Legislature may levy a tax on the whole taxable property of the several townships or cities of this State for the support of said schools."

The present system proposes that not more than one dollar per scholar shall be raised in the district; the substitute leaves it optional—if a dollar be too much, make it less; if not enough, make it more. I think that it is a matter of a great deal of importance, and that we should move in it with a great deal of care. I will move this substitute in the proper place.

Mr. MORRISON—I deem the principle inexpedient to be carried out at the present time; and I think that it would be better to extend the time to some future period, when the people could have ascertained that the great reforms for which we have been called together had been carried into effect. What was the principal object of the call of the Convention? It was, sir, that taxation and expenditure should be lessened; and if we engraft a provision whereby taxation will be increased instead of lessened, the people will cry, "your Convention is a humbug—we expected a decrease of our burthens, but you have increased them."

But aside from the principle, I conceive that the article is objectionable in the highest manner; and I contend that if so carried out it will destroy the primary schools of Michigan. Contrary to the report of the chairman of the committee, who tells us that the system in the State of New York is in successful operation, my information leads me to the conclusion that it is entirely contrary. I am told upon good authority that it is destroying the schools; that by putting it in the power of the townships or districts to say whether it shall be obligatory upon them or not, the property holders, the men of wealth, take measures to destroy the schools; and that, since the new system has commenced in New York, there are districts where schools used to be kept that are not so kept now, and will not be. You take the wealthiest townships and a few men of influence can

break up the schools. Then the district can neither receive the apportionment from the school fund, nor can you raise any money upon the taxable property. Therefore, the principle is striking at the foundation of the primary schools.

Gentlemen have contended "that no one shall be called upon to pay money against his will, that we have no moral right to pay for a Chaplain from the money of the State." I say that the same principle applies in this case as well as the other. The property holder will use your argument that you have no right to take property for religious teachings or otherwise—he will say you have no more right to take away my property to educate your children, without my consent; and so he will be furnished with a justification in his attempts to destroy the schools.

I wish to place the primary schools upon a high standing, and to make it so that every person will be obliged to support these schools in proportion to the amount of their property. I have drawn up the following substitute which will show my views, and which I shall send up at the proper time:

"The Legislature shall provide by law that in the year 1855, and every year thereafter, a general tax shall be levied in the State for the support of primary schools, not exceeding three mills upon each dollar of the valuation of the taxable property in the State. Such tax to be levied and collected in the same manner as the State tax, (for State purposes,) and appropriated for the use of primary schools throughout the State in the same manner as the primary school interest fund."

There is another view which will make the proposed system work badly. We will suppose that there are two towns adjoining one another; one may contain 300 scholars, the other 1000, and the first may have three times the taxable property that the other has. Consequently, in the two towns there is an inequality of taxation, and from this inequality difficulties will again arise as soon as it is perceived, because it would be regarded as injustice.

Mr. LEACH—I am not satisfied with the report that we have received through the committee, nor do I consider it the best system that could be presented. Several substitutes have been read, which at

the proper time will be sent up. I am not better satisfied with the substitute than the original article. I likewise propose to read a substitute. It differs materially from the others, and I ask the careful attention of the committee to its consideration:

"A primary school shall be kept in each school district in this State at least _____ months in each year.

"The right to attend such schools without charge for tuition, is guarantied to all persons between the ages of four and twenty-one years.

"For the support of primary schools, there shall be raised annually, a State tax of not less than _____ cents per scholar, for each scholar returned to the office of the Superintendent of Public Instruction; and such tax, and also the interest of the primary school fund, shall be annually distributed among the several school districts in this State, in proportion to the number of scholars in each, as shown by their returns to the office of the Superintendent of Public Instruction; (and any deficiency that may exist in the districts, after the distribution of said moneys, shall be raised by tax on all the taxable property in such districts.)

"No district failing to comply with the requirements of the law shall be entitled to any portion of the State tax or interest of the primary school fund."

Mr. J. D. PIERCE—I believe primary schools essential to our institutions—that without free schools our government cannot exist, and that it is cheaper to provide schools than penitentiaries. It will be found upon careful investigation, that those who occupy penitentiaries are uneducated men; men who have not had the opportunity of improving their intellects or morals. I have no doubt that it is important that provision should be made for the purpose of obtaining free schools, and I think that the better way would be by a State tax.

The gentleman [Mr. LEACH] will find it difficult to levy a tax upon the districts—it was attempted and failed; there are difficulties attending it that are insurmountable. If a tax is levied, it should be levied by the same authority that collects other taxes; for, giving the districts the power of taxation will be found difficult in practice. From the position that I occupied, I know that more difficulties were created from

this source than any other one thing. I am in favor of free schools; and I hope, before I pass off the stage, that I shall find this State the first in the Union in the cause of education, and that every child will be able to read and write, and to feel that by education he is a man.

Mr. RAYNALE—I am opposed to this section and the amendments; in fact, opposed to all the amendments offered thus far. I think that the Legislature should establish by law a system of common schools, and I think the subject should be left in their hands; as the system is in progress, it should be left for the Legislature to decide upon, and properly amend it from time to time. We might adopt a system that would, in the practical working, be found not to be the best. This matter should be left to be judged upon by the progress of the age.

I am willing to trust the Legislature, for this reason—if they pass a law in relation to primary schools, and it is found not to be good, the power returns to the people; in fact, it is the only way that the people can decide upon the subject. There will probably be no material difference of opinion between the Legislature and the Convention; and I have as much confidence in the Legislature as in the knowledge or judgment of the Convention upon this subject. What we do here cannot be altered, and we may easily take a step detrimental to the interests of the State. Therefore, I hope that the matter will be left so that it can, if need be, be amended by the Legislature.

Mr. BAGG—I perfectly agree with the two gentlemen who have spoken in favor of free schools. I am in favor of free schools—free as the air we breathe; they are based upon the intelligence of the people; therefore, I shall go for the strongest measures to educate the rising generation. Why do we see so many substitutes? It is, sir, because we have a constant tendency to legislate—we go too far into detail; we are constantly tending that way. If this is voted down, I sir, wish to amend the original section in this manner: “The Legislature shall establish by law a system of primary schools; such schools shall be kept in each and every school district, for at least three months in each year, free and without any charge for tuition, to all child-

ren between the ages of four and twenty-one years, and shall provide for the same.”

This leaves all detail to the Legislature, and I should hope that there will be a little wisdom left to carry out the plans.

Mr. ALVORD—I shall not detain this Convention long, but it seems to me there is too much hair-splitting—the same yesterday—the same to day. It matters but little about the phraseology, if it reaches the object. Gentlemen have offered various amendments, and proposed various substitutes, and to my mind, they amount to one and the same thing. It strikes me that the section reaches the object, and that is all that is necessary.

If the wish of the Convention is to strike out 3 and insert 4, 6, or 8 months, I shall have no objection. I think that the spirit of the age makes it obligatory upon us to provide that schools shall be kept up a portion of the year. If we have not school money enough, we should have a tax to pay for the free schools. It is right and proper, and what the people expect, that the free school system should be kept up. Four or six months are little enough for a primary school.

I hope that the committee will not trouble the section with amendments, which may ultimately endanger the views and intentions of the committee who reported. These various amendments are calculated to divide and injure the cause of education, and I was surprised to hear the remarks from the gentleman from Calhoun. I thought that he would go for education in its largest extent. It matters not whether there is a property tax, or a head tax embraced, we arrive at the same end—we accomplish the same object.

Mr. HANSCOM—I am in favor of obliging the Legislature to provide for a system of free schools, and leaving to them the details. If we fix a system in the constitution, it may inflict a serious injury—it may not work well. I think that we might arrive at a conclusion that would be satisfactory. If we leave it resolved that the Legislature shall establish free schools at least three months, or blank months, what more do you want? Does not that cover the whole ground? And is it not endangering the cause of education to go beyond that?

Mr. VAN VALKENBURGH—I regret

that we have been so very unfortunate in meeting the views and feelings of the committee. I think that this is a subject of vast importance; one that appeals to our highest sympathies and feelings. We live under a republican government—we have no law of primogeniture, no hereditary titles—but the road to wealth and distinction is open to all. What do we propose in the bill reported by the committee? To render education accessible to all the children of the land, and that the government shall be accountable for the education of its youth, and that the money spent in education will be saved by the less demand for penitentiaries, alms houses, and the expenses of holding courts. We believe that we are called upon to establish a system of free schools—free to all—that the youth may be educated and prepared for the responsible situation of citizens of a free republic. I care not how this is attained, if the object is brought out; but I am unwilling to leave it to the Legislature. We are bound to ourselves, to our children, bound to posterity, to see that the Legislature shall provide a system of free schools that shall afford the facilities of education to all.

I am not wedded to any particular system; a system that will carry out the views of my constituents, and embrace the objects proposed, will receive my support. But let us not submit a subject of this importance to any future Legislature; they may, perhaps, understand it better than we do, but it is our duty so to fix it, that this right shall never be delayed or wrested from the people. Multitudes are prevented by poverty and the force of circumstances from paying for a school education; and it is the object of the article to open the schools to all. I am willing to let the Legislature manage the details, but am unwilling that it shall be left optional with them to provide free schools or not, as they may choose.

Mr. HASCALL offered the following resolution:

Resolved, That the report be recommitted to the committee, with six additional members added, to be again presented to the House, with all the additional information that they can procure.

Mr. BUSH—I should be in favor of the motion proposed, but I would suggest

whether it would not be as well to take an expression of the opinion of the Convention. The bill provides for levying a tax upon the townships and cities, and there is a large proportion of property, in the shape of non-resident land, that should be taxed. I am in favor of a State tax; but if an expression were taken, the committee would be able to bring in an article that would be satisfactory.

Mr. WALKER—The gentleman [Mr. HASCALL] proposes an addition of six members to the committee. We have had an opinion from six or eight members, and no two agree, while the members of the committee all agree, (leaving phraseology out of the question,) and the addition would not change the result. What new light could the committee have, until we have an expression of the views of the House? We ought to have that expression in order to be able to report back the section in accordance with its wishes. Let there be a test question. The gentleman from Wayne is in favor of a definite sum to be raised per scholar throughout the State. That was in discussion before the committee, but was deemed inexpedient. The difficulty was, that by fixing a definite sum, it must so remain for fifteen years, or the constitution must be amended; by leaving it open, the sum, if necessary, can be increased without such amendment being made.

The resolution was withdrawn.

On motion of Mr. HASCALL, the committee rose, reported back to the Convention, and asked leave to sit again.

Leave was granted.

On motion of Mr. RAYNALE, the Convention adjourned.

Afternoon Session.

The Convention was called to order by the PRESIDENT.

The PRESIDENT announced a communication from the Commissioner of the Land Office; which,

On motion of Mr. COOK, was laid upon the table and ordered printed.

On motion of Mr. ALVORD, the Convention resolved itself into committee of the whole on the article entitled "Education," Mr. S. CLARK in the chair.

The question being upon Mr. WILLIAMS' motion to insert "in means,"

Mr. CORNELL offered the following substitute for section 3:

"The Legislature shall establish free schools throughout the State, and provide for their support. After applying the primary school fund, and such other funds as shall be set apart for the support of such schools, the balance shall be raised by a tax upon the taxable property of the State."

Mr. WITHERELL moved to strike out "shall" and insert "may."

Which was not adopted.

Mr. CROUSE moved to strike out "of" and insert "in." Lost.

On motion of Mr. WITHERELL, all after "tax" was stricken out, and "State" inserted before "tax."

Mr. LEACH offered the following as a substitute for Mr. CORNELL's substitute:

"A primary school shall be kept in each school district at least — months in each year.

"The right to attend such schools without charge for tuition, is guaranteed to all persons between the ages of four and eighteen years.

"For the support of primary schools, there shall be raised annually, a State tax of not less than — cents per scholar, for each scholar returned to the office of the Superintendent of Public Instruction; and such tax, and also the interest of the primary school fund, shall be annually distributed among the several school districts in this State, in proportion to the number of scholars in each, as shown by their returns to the office of the Superintendent of Public Instruction; and any deficiency that may exist in the districts, after the distribution of said moneys, shall be raised by tax on all the taxable property in such districts.

"No district failing to comply with the requirements of the law, shall be entitled to any portion of the State tax or interest of the primary school fund.

"The English language shall be taught in all the primary schools in this State."

Mr. RAYNALE moved to amend the above by striking out "and eighteen," and inserting after "years," the words "and upwards;" also by striking out "between" and inserting "of."

Mr. R. said—I have not sent this up for amusement. When the population is sparse, it is not easy for a person who wishes to improve his mind to go elsewhere than to the district school; and I would like to see this kept open so that it might be free to all—if free at four or ten years, it should be so at twenty years. I see no necessity for making so invidious a distinction.

Mr. PIERCE—I would inquire upon what basis the apportionment would be made—upon the population of the whole State?

Mr. RAYNALE—I want but one thing; that is, that the schools shall be free to all scholars, without reference to age; I don't care upon what basis it is made.

The motion was not sustained.

Mr. LEACH—I am willing that the schools shall be free to all above the age of 18—that they shall be free to every individual who wishes to inform his mind, whether he is four or forty. But there must be some other basis than the entire population of the State to distribute the school fund; and as those between the ages of four and eighteen usually attend school, that would perhaps be the best basis for an apportionment. I do not propose to pass an eulogy upon the primary school system. Every gentleman here is aware of the benefits that are derived from it. I am the graduate of a log school house, and of no other institution. I have had considerable experience in teaching primary schools, and I consider them the most important schools in the country. Nine-tenths of the people never see any other institution of learning, at least as students, and it is for the highest interests of community that we extend the benefits to all—the rich as well as the poor.

I do not suppose that common schools will do away with Colleges; but I do believe that they should fit scholars for the higher seats of learning, without any other preparation. It has been proposed to put off this good time five years; this is decidedly improper, if primary schools are what we believe them to be. If they should be free, now is the time to act; we have no right to put it off for another year. During the last session of the Legislature the question was considerably agitated. A greater tax was proposed to be imposed, and

the only objection was, that the Convention would soon assemble, and that it was the duty of the Convention to provide that a provision should be placed in the organic law of the land; and it was passed over on that ground alone.

The vote of the Convention has said that the Legislature shall establish free common schools. This must be effected by a State tax, town tax, county tax, or a district tax. It appears to me that the true system should combine two of these methods. If the common schools are supported entirely by a State tax, aided by the interest of the school fund, it will prevent much contention and strife. But this cannot be done by a State tax to the fullest extent. If we levy a State tax, to defray all the common school expenses of the State of Michigan, in many districts it will pay the charges; in others, where there are but few children, it will not.

But where this may be the case, they might be intelligent and wish to have a good school, and with proper authority might support a good school. It appears to me that the district should have authority to raise a tax upon the district. If we go back to our system, and collect it by a rate bill, there is no freedom, and there may be very poor people in every district, and the charges might come hard upon them.

As a State tax will not in all cases meet the emergency, the law should authorize a district tax to meet any deficiency that may exist. The substitute provides for that emergency.

In 1839, the returns amounted to \$189,000. If a State tax were raised of fifty cents per scholar, and that distributed in connection with the interest of the primary school fund, it would make 35 cents per scholar.

A school of 100 will be entitled to \$35; but there may be 10 months school, which would require much more than \$100, and we have but \$35 to defray the charges. How can we make out the balance? By a rate bill as at present? That is not carrying out the principles of free schools.

I see neither injustice nor impropriety in resorting to a district tax; but there is an impropriety in taking town or district taxes wholly for the support of the school.

Suppose we have a township of 400

scholars, and the law authorizes a tax of one dollar per scholar; it must be distributed among the number of schools in the district. We have had such a law, and it has created much ill feeling. We had likewise a law authorizing the amount to be raised in the district, and according to my experience it has worked very injuriously. If we raise the principal part by a State tax, there are many towns whose schools are not yet organized, that I hold should be taxed for the benefit of the whole. If districts are not organized, holders of property will escape, except by a State tax; and by adopting it, when a few feeble settlers begin to organize their schools, they will find support.

I feel deeply upon this subject, and I offer this substitute for the consideration of the Convention. If a better one be proposed, I shall cheerfully support it.

Mr. RAYNALE—I am in favor of common schools, and free schools, but I believe that this Convention cannot proceed any farther, without endangering the system. This Convention is not as well prepared upon this subject as members of the Legislature will be. We have received no instructions, and I do know that in establishing an original law we may do an injury to the cause. There is one insurmountable difficulty—there is a new system of schools. There is the Union school at Pontiac, combining four or five districts, and they are building a union school house, which will cost four or five thousand dollars. And, we propose to prohibit any language except the English. If the union system answers, there is a great difficulty if we fix in the Constitution this prohibition. Therefore, I am willing to leave it to the Legislature; if they fail, public sentiment will set them right, and urge them forward until the system is perfected.

Mr. WHIPPLE—I wish to make an inquiry or two about this subject, as the information we have received I do not deem sufficient to guide this Convention to a just conclusion. I do not desire at this time to impose upon the people of this State a burden which they cannot well bear; but I hope that instead, we shall, as the result of our deliberations, lighten the burdens that they have previously borne. We are yet in our infancy; we have much to accomplish; and I hope that in a short time we

shall be able to effect it. I do not mean our physical development alone, but our moral, as a State.

I think that the question as to the number of children who attend school in Michigan, has been answered about 130,000, and the amount of the interest of the school fund I believe to be about \$40,000. I am desirous of obtaining information as to the average increase for the last five years, so that we may ascertain the probable increase for the next five years, and thereby estimate the amount of money that we shall receive from that source, and then the average amount of taxes for the primary schools. I should like to know the amount of school lands that have been sold—the average amount of sales; then I should like to know the number of pupils who attend school—the proportion which they bear to the number of those between the ages of four and eighteen, who do not attend, and then I shall be able to form some adequate idea as to the amount of taxes which will be required to support a system of free schools.

I regard this as the most important question that has come before us thus far; and I am not prepared to go so far as to make it obligatory upon the Legislature to establish free schools, except the people wish it. I think that the people are prepared for, and wish this system, if it do not cost too much. It is a matter of great importance that free schools should be established, and we must commence in our infancy, if, as a people, we expect to be strong and vigorous in our youth. I did not rise to make a speech, but merely to throw out a few remarks for the purpose of obtaining the information which I desire to receive.

Mr. J. D. PIERCE—There is a document by which the gentleman from Berrien might obtain the information.

Mr. WHIPPLE—There is a document, it seems, by which I can obtain the information. One point I will mention. It would be wrong to enact that every language should be excluded except the English language. In Coldwater, I am told, that instruction is given in the French and Latin tongues. In some of the German colonies, I am informed, there is a disposition to use their native language, in preference to the English. In such cases it should be applied.

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Mr. CORNELL—I did not intend to say one word; but I merely introduced this as a simple proposition, to know whether the Convention were prepared to go forward in favor of free schools, and to leave it within the reach of the people to correct whatever mistake the Legislature might make. In answer to the gentleman from Berrien, [Mr. WHIPPLE,] who said he was not prepared to go so far—

Mr. WHIPPLE—I said I was not prepared without further advice.

Mr. CORNELL—I would merely ask him, have not the schools been kept up? and have they not been paid for? The people have paid for the schools; and can they not do it again? By the former law, some individuals were shut out. We want it now so that all can come in; and it will impose but little additional burden.

Mr. WALKER—By referring to the report of the Superintendent of Public Instruction, I find that the per centage was:

	Am't per sch'l'r.	No. of sch'l'rs.
1845,	28,	90,006
1846,	31,	97,658
1847,	30,	108,130
1848,	33,	118,272
1849,	33,	125,218

The system proposed by the gentleman from Genesee is of the same character as that adopted in the State of New York; and which has one of the ingredients of discord which would, as I believe, destroy the schools in this State, if introduced. I have in my possession a letter from the deputy Superintendent of Public Instruction in the State of New York, in which he says that, if any attempt should be made to change our school system, we should avoid raising any portion of the tax in the school districts, as such a provision in that State had operated as an apple of discord, and had proved very disastrous there. For that reason, the committee avoided any recommendation of the kind. I think the substitute of the gentleman from Jackson contains all that is essential to be placed in the fundamental law, except the minimum time that such school shall be kept. It might go a little further, but it should stop at nothing short.

There is another question which his amendment does not cover; and I will test the question in a third sub-division: "That instruction in all the schools shall be con-

ducted in the English language." This I offer as an amendment to his amendment. This avoids the difficulty suggested by the member from Berrien; it does not declare that no other language shall be taught; but it makes the English language the medium of instruction.

Mr. WHIPPLE—How is that possible, while learning another language?

Mr. WALKER—I believe that instruction is very often imparted in a different language to the one that is taught. For instance, if the gentleman has learned the Latin language, the instruction was imparted through the medium of the English tongue. Something to this effect should be done. If this does not effect the purpose I shall be glad to find a better remedy. Large numbers of emigrants are locating in the State; it is the true policy of the State to have them acquire the use of the English language in the shortest period practicable. There is an anxiety on the part of these emigrants to preserve their own language, to the exclusion of the English; this is an evil that should be remedied. If any other method will better effect the object, I shall be glad to have it suggested and adopted.

Mr. J. D. PIERCE would suggest that in all such schools, instruction should be given in the English language.

The motion was lost.

Mr. AXFORD moved to strike out the word "shall," and insert "may."

The motion was lost.

Mr. VAN VALKENBURGH—I trust that the amendment will not prevail. The people have decided that they are in favor of free schools.

The CHAIR—The question is upon the substitute of the gentleman from Genesee.

Mr. RAYNALE moved to strike out "eighteen," and insert "twenty-one."

Which was accepted by Mr. LEACH.

Mr. J. D. PIERCE—I move to strike out all that part that gives the district the right to tax. My reasons are, that I deem it impolitic to give the district the right to tax—to raise the tax for a school, at all, or giving them a right for any purpose except for building school houses, or repairing the same. I have no doubt that the chief difficulty in the State of New York, and our previous difficulty in our schools, have arisen from such a source.

Mr. LEACH—It was only to supply the deficiency of the State tax.

Mr. ROBERTSON—Cannot the Legislature provide for the deficiency?

Mr. LEACH—The Legislature can authorize the raising of money, but it does not make it compulsory.

Mr. VAN VALKENBURGH—I believe that I understand the question now; it is upon the substitute of the gentleman from Genesee.

The CHAIR stated that it was upon striking out that part that relates to the right of the district to raise a tax.

Mr. VAN VALKENBURGH—The difficulties in the State of New York have grown out of this source. I think the substitute of the gentleman from Genesee should be adopted, so that we shall be sure of having free schools open to the whole community.

Mr. CORNELL—In the original law, a provision was made which would have rendered the schools essentially free; but the districts got at loggerheads, and would do nothing about it.

Mr. RAYNALE—How can the deficiency be made up if the State tax is not sufficient, without some liberty to make a tax? It cannot be managed without collecting a surplus fund. I am opposed to the system as it stands now. By levying a State tax sufficient, the people might swallow it readily at first; but it would soon be found out, and difficulty would commence. We may gradually creep into a system of free schools; as our funds increase we may extend and enlarge; but I am unwilling to place it at present upon the basis of the gentleman from Jackson, or that of the gentleman from Genesee. However, when the time comes, I shall call up my amendment to strike out the whole matter.

Mr. FRALICK—From all that we have heard, we might suppose that at present we have a system that is oppressive—that the people could not exist without we have a change. What is the present system? We have been perfecting it for the last fifteen years; it may want a little alteration, that is to say, take the power from the districts and place it in the hands of the towns or the counties. The difficulty now is in the districts, and the district officers are not generally so compe-

tent. We have a free school—have had for years. Property might be taxed for the support of schools—it is the people's system—a free system. But have the people universally gone to the extent of the law? No, sir, it has not been done. Because they had not the power—because they did not know? No, sir. But because they did not think it the best so to levy the tax. And, if they have sent us here to levy a tax upon the whole population of the State, why have they not done so for the last two years? They have had the power in the districts, yet not one in one hundred have levied a tax as much as they were entitled to do by the law.

The district that I live in levied a tax last year for the first time; we went to the extent of the law—one dollar per scholar. Well, we knew what that meant, and we paid it, but a great many found fault; and if you place a system of that kind in the constitution, a great many votes will be cast against it.

We have a system upon which the people can act every year. Still, it is said that we must have another change—that people want free schools—that we must take our entire system and throw it away, and legislate in this Convention to obtain an object which we had before. I think the present system is as near right as it can be. I have heard from New York, that they have had difficulties there; and I do not believe that we can change the present system much for the better.

I have drawn up an amendment, which I will read, taken from the old constitution, with this change—giving the towns the authority formerly exercised by the districts:

"Sec. 3. The Legislature shall provide by law for a system of primary schools, by which such schools shall be kept up and supported in each school district, at least three months in every year; and any school district neglecting to keep up and support such a school, may be deprived of its proportion of the public funds; and a tax shall be levied on the several townships and cities of the State, upon the whole taxable property in such townships and cities respectively, for the support of such schools, provided such tax shall not exceed the amount of ——— in any one year, for all children between the ages of four and

eighteen years, in any township or city, and the amount of such tax in each township or city shall be distributed to the several districts therein keeping a three months' school, in proportion to the number of children between the ages of four and eighteen years returned from said districts respectively."

Mr. N. PIERCE hoped that it would all be stricken out. Why did not the districts authorize the money to be raised as the law permitted? Because it produced difficulties—for the reason that if you allow one man to put his hand in the pocket of another, he will be very likely to put it to the bottom.

I believe that the greatest difficulty in the State of New York has arisen from the authority given to the districts. Those who pay the least wish the greatest amount to be imposed—those who have to pay the most naturally engender hostile feelings; it does not answer the purpose.

I think we might impose a tax upon the taxable property of the State, but that it should be limited to two mills upon the dollar; and the rest, a tax imposed upon the district, or the persons sending to school, or the property of the town or district.

The State of Connecticut has done the best of any State in the Union. There they collect the public money and pay it to the district; the district keeps school a certain length of time, makes a report, then receives the public money. The balance is made up according to law. They educate all classes of the population without controversy. They have the most funds and have great unanimity.

I know of some districts in Washtenaw where they have spent money needlessly. They have paid great sums to the teachers—paid the officers of the district one dollar per day for their services; and I know that this has produced hostile feelings. Persons who send to school should pay something—how much I do not know; but I think that a small tax imposed in that manner would bring the district to a better understanding than if left entirely to the control of external operations. It is, besides, in that manner productive of greater harmony.

Mr. LEACH—My substitute provides for a State tax. If I could have my way

it should be so high that the schools would be nearly free. The gentleman from Wayne says that the present school system is nearly as good as free. We have the privilege of drawing for a school of 30 children about \$9 from the State, and \$30 from the district, which would give three months a male teacher, at \$9 per month, and thirteen weeks a female teacher, at 8s per week. We know what \$9 and 8s teachers are worth. If we are to have good schools we shall have to employ teachers that will command higher wages. It appears to me that we ought to take action to ensure the public interests of the whole people—not to guard our own pockets; and with due deference to my friend, I believe that there never was a man yet who could find the way into his pocket.

Mr. CRARY—I am in favor of the proposition to strike out, and am in favor of the substitute of the gentleman from Wayne, and will endeavor to give my reasons for so doing.

We have now had a school system for fifteen years. The first law was passed in 1840; the one now in operation was established in 1843, and was constituted nearly the same as it stands now; and I consider that it is as good a system as ever was got up; I know too, that it has been copied in several States. It provides for the education of every person in the State, as far as our ability goes—it winds up its own business, and it leaves no difficulties that were incident to the first system, where there was a tax collected by the district. It gives good satisfaction to the people—it does a great deal of good at the present time—keeps up an interest in the minds of the people for the great cause of education. And, however we may leave this Constitution with regard to free schools, the subject has taken such a hold upon the public mind, that except you absolutely prohibit it, the people will have the best system. We may, however, hedge round the system so much that it may be condemned before it can fairly be tried. It took from 1843 until the last year to perfect the system, and as so much care has been bestowed, and it gives such general satisfaction, we had better simply interweave in this Constitution the substitute of the delegate from Wayne, leaving it to the action of the Legislature to provide for free schools, by

what system or mode they think best; either by general taxation, or tax levied on the school districts, towns or counties. It has been said that the system in the State of N. Y., was not involved in difficulty. I received a letter from the deputy Superintendent of Public Instruction: he says that the system is in danger, because they had commenced upon a wrong principle. The difficulty is this: in one district a person owning a certain amount of property will have to pay \$30. In the next, probably a person with the same amount of property, will have to pay no more than \$5. Men can and do draw comparisons, and the result is a strong feeling of dissatisfaction; so much so, that the language of the deputy Superintendent was, that the system was in danger. His opinion was that the Legislature would submit it to the people.

Mr. CHURCH—The question is submitted.

Mr. CRARY—I think that the best plan would be, to leave the system to be perfected, if it need be, by the Legislature. The committee on education have, however, neglected an important feature: they have made no provision for a forfeiture of the public money, if a district neglects to keep a school a certain length of time. The old constitution said, if the district did not keep up a school for 3 months, they should receive no money. If we are going to have a system of free schools, there should not only be a forfeiture of the public money, but a penalty if any district neglects to comply with the law. I think that a system of free schools will eventually be adopted. I am willing to leave it to be fixed by this Convention, if an interval of four to six years be allowed from the present time. I am willing to leave it to the Legislature, as long as you keep a public officer, whose business it is to attend to the cause of education; but when that officer is struck out, I should think that the cause of education is in danger, but not otherwise. I believe that that officer is requisite to sustain and forward the cause of education; and that it is necessary that each State should employ one; and that he should have the same dignity and respectability that is given to the first officer of the State. If we are to have a system of free schools, we should have an officer to

look after the interests of the whole State; attend to the various departments, and the various responsibilities connected with the duties. I should prefer to keep him, even if his salary was stricken down to \$100; if you retain the officer, he will keep the cause of education before the people, and it will flourish. All that I think necessary is, to adopt the substitute of the delegate from Wayne, and provide a forfeiture.

Mr. MOORE—I do not believe that if the sense of this Convention was taken, we should find six gentlemen that are not in favor of free schools, and yet the present system can scarcely come under that denomination. In our district we have a man who has twelve or thirteen children. He said he was not able to send them to school. The district said send them and we will make up the difference. Now, sir, I want the present system so modified that every man shall send his children to school, whether he can pay or not, without any provision that seems like a poor law.

I think that we should all be in favor of free schools; there can be no person objecting except those who are wealthy and have no children. I think that we ought to establish the system upon a thorough basis, and I shall be glad to see it immediately adopted.

Mr. TIFFANY—I am in favor of free schools; but I do not see the necessity for our saying in this constitution that there shall be free schools, as I have no doubt that the Legislature will do it when the people demand it.

The present amount of about thirty-three cents per scholar will not do much towards keeping a school up for six months in a year; and the various modes of taxation proposed, whether by State, town, county or district tax, will make but little difference, as the whole weight has to be borne by the people. A tax that would keep free schools for even six months, would be very large. Why should we place in this constitution an amount that we may be sorry for, when we know that from time to time the Legislature can and will regulate the matter.

The question recurring upon Mr. J. D. PIERCE's amendment, the same was carried.

The question then recurring upon Mr.

LEACH's substitute as amended, it was not sustained.

Mr. BUSH moved to amend Mr. CORNELL's substitute by striking out "shall" and inserting "may."

Mr. BUSH—I am opposed to the provision, as reported by the committee, and in favor of the amendment. The provision as reported gives the power to raise revenue sufficient to make schools free:—first, to the township, and in case of deficiency, the deficit to be raised by the school district. Experience has shown us that great inequality in taxation will exist in different locations of the State; it but proposes to make permanent in the constitution the system that was commenced under the liberal provisions of our present constitution by the statutes of 1838. The Legislature then, actuated by the purest patriotism, provided that any deficiency that might exist, after using their proportion of the primary school interest fund, might be raised upon the taxable property of the school district. The inequality that existed in the districts was so great, and so apparent, that the system fell at once into disrepute. One district would, by economy, cause a school to be kept up without resorting to oppressive taxation; another, perhaps, in the same township, by prodigality and extravagance, levied a tax upon the property of their district, ostensibly for the support of schools, which the property holders were neither able nor willing to bear. This evil existed in some portions of the State to so great an extent as to effect the relative value of real estate, and necessarily led to a modification of the law. I therefore am opposed to the provision as reported, believing that the same evils would result from its operation, and the consequences would be more disastrous from a constitutional provision, in consequence of permanency, than from a repealable law.

The amendment provides that a tax shall be levied upon the whole taxable property of the State, and shall, when collected, be distributed among the districts, in proportion to the number of scholars, in the same manner as the primary school fund is now distributed. As a friend of universal education, I go for this measure, believing that the whole property of the State should be taxed for the education of

the children of the State. Under this system, schools may be free, and will be free, if wisdom characterize the action of those whose duty it becomes to carry out this principle. The only question with me is this: the amendment provides that the Legislature shall provide for levying a tax. &c. I would prefer the word *may* to the word *shall*, although probably the effect will be about the same. Action cannot be enforced until it is deemed expedient—an imperious mandate is as *important* as a mere *permission*, unless sanctioned by the public will; and when so sanctioned, either is effectual. The principle contained in the amendment I am in favor of, but would prefer a slight change in the language, lest it might lead to an impression that by our action, we were increasing the burdens of the people, when, if one thing, more than all others called this Convention together, it was that by remodeling the Constitution, taxation would be reduced.

Mr. FRALICK moved to amend section 3 by striking out all after "shall," in first line, and inserting "provide for a system of primary schools, by which a school shall be kept up and supported in each school district, at least three months in every year; and any school district neglecting to keep up and support such a school, may be deprived of its equal proportion of the interest of the public fund. And the Legislature may levy a tax on the whole taxable property of the several townships or cities of this State for the support of said schools."

On motion of Mr. BAGG, the word "up" was stricken out wherever it occurs in the amendment.

Mr. BRITAIN—I am glad to see the feeling in favor of free schools as expressed in this Convention, and that the prevailing sentiment appears to be, that it is proper to make it obligatory, either now, or at some future time, upon the Legislature, to provide for them. I believe that the feeling of the people is in favor of free schools; but there is a feeling of a different description. It is that of the property holders. They are possessed of great influence—they well know how to defeat the will of the great body of the people on this subject, and thereby leave the education of the youth solely in the hands of parents or guardians. That is certainly the

case, as they seem unmindful of the fact that property is always more lightly taxed in an educated than in an ignorant community.

We should provide for two things: one is equal taxation; the other, that the rising generation shall be instructed. But it has been said that the Legislature had the power, and we are asked why they did not exercise that right. I answer, that the will of the people has been defeated by the talents of men like the gentleman from Wayne. Numerous petitions were received last winter by the Legislature, praying for free schools. Why was it not granted? Not because there was a feeling against it; but because those opposed to it pointed to the assembling of this Convention—that it had better be left until that time.

I am not satisfied with this amendment, because it surrenders the principle. If it cannot be established for six months, let it be for three; but I hope that we shall not be satisfied with any amendment short of that. Every collection of taxes by a district, is liable to be unequal.

This would be extremely unwise and unjust. The true theory of government, as understood at the present day, requires the whole property of the State to support the government of the State, instituted for the protection of said property. And no fact has been more satisfactorily established than the fact that the property of the State can more cheaply educate the people of the State, and maintain the government over an educated people, than it can support a government over an uneducated people; and that a tax for educational purposes is but an interest tax for the protection of property, and should be paid equally by all taxable property protected.

If these premises be true, the duty of this Convention must be apparent. It is alike bound by justice and sound policy to provide, by a tax upon the whole property, for the most economical and perfect protection of the whole property, instead of leaving it subject to the payment of onerous taxes for the support of government, over a population but half educated by the limited means heretofore drawn with so much injustice from parents and guardians, who possess comparatively but a small share of the property of the State.

There is another argument in favor of

free schools, which addresses itself to higher motives, and the soundness of which is perhaps quite as well established as the former. It is this: the children of the State are the property of the State, and entitled to support, education and occupation, whether their immediate guardians are able to give it to them or not.

This theory, resting upon the character, and resulting from the obligations of our civil compact, formed for the purpose of supporting, protecting and benefitting each other, claims that the present generation is bound by the strongest obligations of duty, to support, educate and qualify for self-government, the rising generation; and so many means are already provided by law for the accomplishment of these desirable ends, that to a discriminating mind, the only wonder is, that more direct, just and efficient means have not been adopted for the accomplishment of so desirable an object. But, Mr. Chairman, the most difficult questions connected with this subject are, the best method of raising the means, and of insuring their economical expenditure. If you raise the whole amount by a State tax, there may be difficulty in securing an economical expenditure, as the immediate interests of persons interested with the expenditure, will be to draw as copiously from the fund as practicable. If you raise a part of it by State tax, and permit the districts or townships to raise the balance by district or township tax or a capitation tax, or by rate bills, as they may deem expedient, some will raise by district, some by township, and some by capitation tax, while others will collect by rate bills, from parents and guardians.

The property of a district supporting its schools exclusively by a tax upon property, would pay a higher tax than that of a township supporting its schools in part upon rate bills; dissatisfaction would inevitably be the consequence, and the system might be broken down by the crafty property holder, before it received a fair trial. I think that all the burdens we impose should be imposed equally. That the best method of accomplishing this will be to raise a large portion of the school moneys by a State tax, and the balance by a uniform tax, as far as the interests of education will permit, beyond the control of the

district. A school in every district should be free during a part of each year, to all scholars residing in the district, and made free from expense to all who are unable to pay; and also made as nearly free from expense to all as shall be consistent with a guarantee of an economical expenditure of the public moneys; and the tax for the support of such schools should, as far as practicable, be a State tax.

Mr. CRARY—By the present system we have about 33 cents per scholar—the tax upon the district—the residue raised by a rate bill. We have thus three sources of revenue at the present time, and many persons are not prepared to go further than the method suggested by the substitute. Some wish to make it imperative, but I do not think that it is desirable to levy a tax, and I will give my reasons.

It is a pretty thing to have a beautiful theory, but sometimes the practice is very different. Difficulties will arise under the general tax system. If you go and levy a tax—a tax for the whole State—who will regulate the prices to be paid for teachers in the districts? If left to the district, what will they make the expenditure? They may pay their teacher forty dollars per month and have but a few scholars. There will not be that care which is required at present, and the chief expense will be thrown upon the more wealthy portion of the State. It would be the best to leave it open; let the Legislature say whether it shall be by towns or counties, or by districts; making it imperative that in two, four or six years, a free system of schools shall be established. If we embody in the constitution, to take immediate effect, the substitute of the gentleman from Genesee, we shall not convince the people that we have done one thing towards lessening the expense, for we cannot carry his proposition into effect, short of a tax of \$100,000 for the State; it will probably be more, but I am taking a low estimate. Now, if in this constitution you impose a tax upon the people of this magnitude, how much will they thank you for it? They will say, we sent you to lighten our burdens; you have made them greater.

I think that it must be left to the Legislature. It is, I think, the voice of the Convention to have a free school system—it is my wish—but we must not impose too

heavy a burthen to accomplish this object; for if we do, the people will not sustain our action.

On motion of Mr. AXFORD, the committee, through their chairman, reported back to the Convention, and asked leave to sit again.

Leave was granted.

On motion of Mr. VAN VALKENBURGH, the Convention adjourned.

THURSDAY, (22d day,) June 27.

The Convention met pursuant to adjournment and was called to order by the PRESIDENT.

Prayer by the Rev. Mr. ATTERBURY.

"Article —, Militia," was read a third time, passed, and referred to the committee on arrangement and phraseology.

The Article entitled "Executive Department" coming up for a third reading,

On motion of Mr. HANSCOM, it was laid upon the table.

Mr. HASCALL's resolution of yesterday being under consideration, he modified the same so as to read as follows:

Resolved, That during the adjournment voted this morning, the per diem of members of the Convention be suspended. Also, the per diem of officers, except such as shall remain at their duties at the Capitol.

Mr. ALVORD moved to indefinitely postpone the same, and the yeas and nays being demanded, the result was as follows:

YEAS—Messrs. P. R. Adams, Alvord, Arzeno, Barnard, J. Bartow, Beardsley, Beeson, Alvarado Brown, Asahel Brown, Butterfield, Chandler, Crary, Crouse, Desnoyers, Dimond, Eastman, Gale, Graham, Harvey, Hathaway, Kinne, Leach, Lee, Marvin, Mason, Moore, Mosher, Mowry, Prevost, Raynale, Roberts, M. Robinson, Soule, Storey, Sullivan, Sutherland, Tiffany, Van Valkenburgh, Webster, Wells, Whitemore—44.

NAYS—Messrs. W. Adams, Anderson, Axford, Backus, Bagg, Britain, Ammon Brown, Burns, Bush, Carr, Chapel, Choate, Church, S. Clark, Conner, Danforth, Daniels, Fralick, Gardiner, Gibson, Hanscom, Hascall, Hixon, Kingsley, Lovell, Morrison, Newberry, Orr, J. D. Pierce, N. Pierce, Redfield, Robertson, E. S. Robinson, Rix Robinson, Skinner, Sturgis, Town,

Wait, Walker, Warden, Whipple, Withersell, Woodman, President—44.

So the motion to indefinitely postpone was lost.

Mr. ALVORD moved to amend the resolution by adding thereto the following:

"And all members who have been heretofore, are now, and who may be hereafter absent, and also those who remain at the Capitol during the adjournment, shall receive no per diem"

When, on motion of Mr. HANSCOM, the Convention resolved itself into committee of the whole on the general order, Mr. J. BARTOW in the Chair.

"Article —, Seat of Government," being under consideration,

Mr. ALVORD moved to strike out all after "the," in 1st line, and insert "City of Detroit in the County of Wayne."

Mr. KINGSLEY said the committee who reported this article were unanimously in favor of locating the seat of government permanently, where it now is; and he was not aware of any difference of opinion on the subject amongst the members of the Convention. There might have been some other propositions talked about, with the view of entertaining the people of this village, but there was not a single person, he believed, who seriously entertained the idea of its removal. If the gentleman from Wayne was really serious in offering the amendment, he [Mr. K.] would wish to hear his reasons. He did not believe any reasons could be assigned for removing the capitol. It had come here without any particular influence to favor it. There was no city or village here at the time—those now residing here have had an equal chance. When self interest could not be gratified by the permanent location of the capitol, the Legislature cast about, and fixed upon this place. I think [said Mr. K.] it is pretty well located. It is a pretty place, and a healthy place. It may be a little too far south. An extensive country lies to the north of this place—rich in agricultural resources, and which in time will be settled with a dense population. At any rate, the city of Detroit should not ask for it. It is more for their interest that it should remain here. The country will be settled with more rapidity—plank roads and rail roads will be extended into the interior, and Detroit, as a

commercial city, will receive far more benefit from such improvement, than if the Legislature sat for forty days, once in two years, in the city. He [Mr. K.] would like to have it removed to Ann Arbor. The people of Jackson would probably like to have it there. So of Marshall—but they cannot have it. Let Detroit be satisfied with what they have. There is a great commercial city; they have advantages which none other in the State possesses. The interests of the State required the seat of government to be established here, and he believed there was no disposition among the delegates of the Convention to remove it.

Mr. J. D. PIERCE moved to insert New Buffalo, in the county of Berrien.

Mr. ALVORD—I can assure my friend from Washtenaw, that I never was more serious in my life. The gentleman asks for reasons. I ask, what reasons induced the change from the city of Detroit? One reason is, because we want it changed. We want it in the city of Detroit, where it should have remained. It is a notorious fact that the people of this State, generally, think it was the greatest humbug that it was ever removed. Stuck out here in the woods—inaccessible—in the midst of a forest—where the delegates to the Convention and members of the Legislature are constantly annoyed with mosquitos—for the life and soul of me, I never saw such mosquitos—they are large enough, and have tenacity enough, to hold out through the winter.

Detroit, sir, is the commercial metropolis. There the people do their business. Those who do business at the seat of government, do their commercial business at Detroit. It is more accessible than any other place in the State. A circumscribed circle around this place may be accommodated; but how are the great masses of the people accommodated? How is the vast population that will cover our Upper Peninsula to be accommodated? They will have to come to the commercial metropolis before they can get here. It is the business place—the outlet of the State—and is the place that common sense would dictate as the seat of government. I admit [said Mr. A.] that a few here are accommodated; but, I ask, if a few are to be accommodated at the expense of the many? I do believe that the people of this

State desire the change of the location of the capital; and I should not think I did my duty to my constituents and the people of the State, unless I defined my position on this question.

Mr. VAN VALKENBURGH—I was not much surprised at the proposition of the gentleman from Wayne, [Mr. ALVORD;] but I was surprised when the gentleman told us he was in earnest—that he was never more serious in his life. With my opinion of the gentleman's good sense, I could not reconcile it. What would he do? The capitol has been located here three years. About the propriety or impropriety of locating it here at the time, I take no issue. The gentleman from Washtenaw has given us the reasons for proposing its continuance in the present location. Those reasons have weight with me, and will also have weight with the Convention.

The main argument of the gentleman from Wayne is, that we are infested with mosquitos, and that they are of a peculiar kind—of large stature, and possess great tenacity of life—that they will continue to live in winter. I, sir, [said Mr. VAN V.,] have not been troubled with them. I have formed no acquaintance with associates of that kind. He asks us how we have been accommodated here. I answer, I have been well accommodated; I have had all the accommodations I require, and so far as my intercourse with the inhabitants has extended, I am constrained to say. I never fell into a community where I was treated with more kindness and hospitality. I think of all locations, this is the most proper. The argument that we are isolated from the world, is an advantage. We are clear of outsiders and lobbies. This is a proper place, sir.

But there is another argument over and above all others; like Pharaoh's lean kine, it swallows up all the others. The character and faith of the State are pledged. Individuals have come here and invested their all, in view of the location here for all time to come. It would be worse than robbery to those who have come here under the auspices of the State and invested their property, to remove the capitol. The gentleman from Wayne says there is a strong sentiment in favor of removing to Detroit. Sir, it is not so. The sentiment of the people, so far as I know it, is against the remo-

val of the capitol. If ever the capitol of Michigan be removed, it will be farther into the interior of the State.

Mr. ALVORD—I did not intend saying anything disrespectful of the people of Lansing, and I believe the gentleman from Oakland, [Mr. VAN VALKENBURGH,] has been treated with much hospitality. I have seen it in our streets and elsewhere. The reason why the gentleman has not been troubled with the bites of the mosquitos, may be attributed to the discriminating taste of those little insects—to their choice in the article of food.

Mr. J. D. PIERCE—If the statement of the gentleman from Wayne is correct, there must have come a change over Wayne county. In 1847 the delegation of Wayne voted for its removal here.

Mr. FRALICK said he had the honor of having a seat in the Legislature of '47, in part representing Wayne county. He voted for the location at Lansing, and had not yet regretted the vote he gave on that occasion. He had entertained the opinion then that it was the best move for the whole people of the State, and he entertained the same now. His colleague seemed to intimate that the capitol was located here for the benefit of some few individuals. That was not the case. The capitol was located on a school section, and a large amount of money had accrued to the school fund from its location here. He [Mr. F.] believed that it was more for the benefit of Detroit than it should remain where it is. The only question at the time of the removal was, whether it should remain in Detroit till some accommodation could be had here. There was some inconvenience felt the first winter; but where ever was a new country settled without some difficulty? He recollected the time when it was as difficult for those settled twenty-five miles from Detroit to get to that city, as it is to get here. Let the capital be located permanently here, and in a very few years there will be every convenience for getting here.

There is, [said Mr. F.] another point of view in which this question ought to be considered. All the southern and eastern counties have had the benefit of the patronage of the State. They have had the Southern and Central Railroads built; Detroit has had the benefit of those. When we talk of taxation, we wish to bring the

whole people in. When benefits are to be conferred, we wish them to be confined to our locality. They have got a splendid country here. It only wants to be seen to settle it, and make it one of the finest parts of the State.

The question was taken on Mr. J. D. PIERCE's amendment, which was lost.

Mr. ALVORD's amendment was negatived.

The committee then proceeded to the consideration of "Article —, Elections."

Mr. MORRISON moved to strike out the words included between the word "inhabitant," in third line of section one, and the word "shall," in fifth line, and to insert "of the age aforesaid, who may be a resident of the State at the time of the signing of this Constitution."

Mr. RAYNALE offered the following substitute for section one:

"In all elections, every white male citizen above the age of 21 years, having resided in this State six months next preceding an election, shall be entitled to vote at such election; and every white male inhabitant of the age aforesaid, having resided in this State two years in all, shall be entitled to vote at all elections: *Provided*, Such inhabitant shall have resided in this State for the six months next preceding such election; but no such citizen or inhabitant shall be entitled to vote, except in the township or ward of which he is an actual resident."

Mr. MORRISON said the amendment he proposed was a provision incorporated in the old constitution; no evil had resulted from it, and he saw no reason why it should not be incorporated in the present. There are inhabitants now in the State to whom the elective franchise might with great propriety be extended. He was disposed to give them all the privileges of citizens, as far as it could be done by the State.

Mr. BAGG concurred in the views entertained by Mr. MORRISON. He would cheerfully support the amendment offered.

Mr. RAYNALE said—The gentleman who offered the amendment [Mr. MORRISON] seems to think there is the same necessity for incorporating this provision in the present constitution as there was when the old constitution was framed. Our State Government was formed under the ordi-

nance of '87 Had the inhabitants at that time been all aliens, it would have been perfectly consistent for them, under the authority of that ordinance, to have gone on and framed a constitution and State government. We are now in a different situation; we have a State government, and we have the right to say who shall be electors. I [said Mr. R.] was in favor of it at that time—in '35. At that time every white male inhabitant had a right to vote. I am in favor of the principle now, if the circumstances were the same as to require it in the present constitution. I am in favor of every white male citizen being entitled to vote on some correct principle, and a principle that can be applied to foreigners or aliens; but I think people coming here from a foreign country ought to have time to prepare themselves for exercising those privileges under our institutions. The time I propose in the substitute I have offered is two years. I think that is liberal—it would not be onerous or severe. It would give a man time to make himself acquainted with our institutions. It appears to me, the section I have sent up embraces the most rational plan; and that it will meet with the wishes and views of the people better than any other that can be adopted. As to whether the sons of those who have the right to vote under the old constitution will have a right to vote, I cannot say. All under the old constitution will have the right to vote, and all born here will have the right to vote.

Mr. R. considered it too long to require a person to remain five years and become naturalized under the laws of the United States before he could vote. He would only require a man to have time to become acquainted with our institutions; he would not require him to have papers in his pocket to entitle him to vote.

Mr. HASCALL—The privilege of voting ought to be founded on the knowledge of our institutions. We have in our borders great numbers who have emigrated to this country who do not speak our language and have not become sufficiently acquainted with our institutions to vote intelligibly. The provision reported by the committee requires them to go through the process prescribed by the laws of the United States, before they can become cit-

izens or have the right of voting. In two or three years they will become acquainted with our system of government and can vote intelligibly.

The amendment of the gentleman from Calhoun would operate unequally. Those who come in a week before the adoption of this constitution will not have to go through this form; those who come in one week after, will. There can be no material difference in their intelligence. It would operate unequally if incorporated in the constitution.

The amendment offered by Mr. MORRISON did not prevail.

Mr. SUTHERLAND moved to amend as follows:

Add at the end of section 1: "All foreigners who shall have resided in this State one year previous to the adoption of this constitution, shall be entitled to vote at any election; provided that they shall not have such right after five years, if, during that period, they do not become naturalized, and be able to read and speak the English language."

Mr. WITHLRELL moved to amend the above by striking out, "and be able to read the English language."

Mr. SUTHERLAND said—In the county of Saginaw over a thousand Germans are located, where there are but few of our citizens. They are desirous of organizing school districts, where there is not a sufficient number of our own citizens to fill the offices. Unless there is some provision placed in the constitution, for the time being, to allow them to hold office, and to vote, they will be unable to enjoy the privileges to which they are entitled. But, though they ought to be put in possession of those privileges to which their adventurous spirit entitles them, care should be taken that they do not abuse those privileges. There is a disposition among them to colonize and settle together, to encourage their own habits and maintain their own language. If this is encouraged, it may take generations to adapt them to our language and the genius of our institutions. If this is struck out, they will speak and teach their own language—they will keep up in their schools their own language, and that alone. Adopt this amendment with the proviso, and they will have the right of voting and filling those offices,

and in five years they will read and speak the English language. They are intelligent men. They speak the German and French, and some of them the English language. They are inclined to be in-lustrious and peaceable and to learn our language. If this provision is adopted, they will learn our language and adopt our habits.

Mr. WITHERELL had made the motion to strike out, because he thought it would be difficult to carry out the provision submitted by the gentleman from Saginaw. It may require a committee of school masters to ascertain and decide when a man knows the English language, and can speak it. A man may be supposed to speak the English language, if he can communicate his ideas in a broken manner; or he may be required to speak fluently and grammatically. It was on account of its impracticability that he proposed to strike out. He [Mr. W.] knew many of those emigrants from Germany and Holland, who speak the German and French languages, and some of them the English language. A large portion of the emigrants are well educated; many of them who are day laborers, are good Latin scholars. In Prussia their system of schools is better than ours. They are at liberty to learn any branch of education, music and the languages. Education is there free; and parents are obliged to send their children to school. He [Mr. W.] believed the whole body of Germans in this country could read and write.

Mr. KINGSLEY believed the German emigrants were, generally speaking, intelligent men. He did not understand why they should vote at one time and not at another. He did not wish them to learn the English language too fast. They may be full as honest as they are.

Mr. ALVORD was in favor of a shorter probation than five years. He would require them to declare their intention to become citizens, and then in one or two years allow them to vote. With regard to requiring them to read and write the English language, he was opposed to that. Many of the French, who are old inhabitants, cannot speak English, or speak it imperfectly. In its application, the gentleman will see the unfairness of the proposition.

Mr. HASCALL thought it best to let them work out their citizenship under the laws of the United States, for the reason that those who wish to become voters will prepare themselves; but to allow them to vote indiscriminately would be extending the privilege to those who do not wish to know or be acquainted with our institutions. If there is an intelligent foreigner who wishes to become a citizen, he will file his intentions, and in due time become a citizen. In the mean time he will be studying our institutions, and become better enabled to vote than if he were not required to do so. The committee took pains to prevent any injury to the State from indiscriminate voting, by foreigners coming into the State.

Mr. GALE thought gentlemen took a singular view of the question; one which he did not understand as according with the principles of justice. He did not know why foreigners coming one day, should be voters, and those coming the next, should be cut off from the privilege for five years. There could not be a shadow of difference in the qualification. It ought to be fixed on some more just principle. A great complaint is made of the probation foreigners have to go through. Let us reflect, and look at our young men; are they not as well prepared to vote at sixteen years of age, as foreigners after two years residence? Why keep our boys in a state of probation, and put the foreigners ahead of them? And yet they decay this probationary state. It looks to me [said Mr. G.] to be nothing but buncombe. All I ask is, that it should be founded simply on the principles of justice.

The question was taken on Mr. WITHERELL's amendment, which was lost; and Mr. SUTHERLAND's amendment was negatived.

Mr. HANSCOM moved to amend section 1 by inserting in second line, after "election," where it first occurs, as follows: "and every white male inhabitant above the age aforesaid, who has resided in this State two years next preceding the adoption of this Constitution, and has declared his intention to become a citizen of the United States, pursuant to law."

Mr. HANSCOM said—His reasons for proposing the amendment, were in part to meet the objections raised to excluding foreigners entirely from voting, unless

they went through the forms prescribed by the naturalization laws of the United States. A distinction might with propriety be made between those who have been in two years, and those who have come in since. He was disposed to go as far as we could in giving them privileges, but there must be some limit—it was idle to oppose it. He would propose two years as the limitation, and would guard it by requiring them to take the oath required by the United States, that they intend in fact to become citizens of the United States.

Mr. TIFFANY saw no reason why it should not be made to apply to those who shall hereafter come to reside here, as well as to those who are now residents here.

Mr. MOORE saw no propriety in extending the right of voting to foreigners, except in the regular mode. The amendments proposed struck at the very root of the institutions of our country. He was disposed to go on the old principle.

Mr. BUSH was in favor of the amendment offered by the gentleman from Oakland, [Mr. HANSCOM.] As the gentleman from St. Joseph had observed, this was a very important subject. The gentleman asks if it is proper to make this provision applicable to persons now resident in the State, why not make it applicable to persons who may come in hereafter, and for all future time. There is one reason. We know the character and disposition of the inhabitants here, but we know not what it may be with regard to future immigration.

In '35 every inhabitant was made a voter. He [Mr. B.] had never seen any inconvenience grow out of it. It was liberal. He would ask if it had not had its influence in bringing many worthy citizens to the State of Michigan. If so it was worthy of consideration—but at present he would not go for a provision so liberal, not because it had been disastrous or attended with inconvenience, but that the institutions of our country may be protected—that they may not be allowed to vote till they have adapted themselves to our institutions.

I believe [said Mr. B.] the amendment proposed by the gentleman from Oakland is sufficiently liberal, and I hope it may be adopted. After a man has declared his intentions, going again into open court, and while other business is going on, sub-

scribing to an oath, is a matter of form; it amounts to but very little.

Mr. BAYNALE would ask if, when a foreigner applies for admission, he takes an oath?

Mr. HANSCOM—Yes, of the most solemn character, renouncing allegiance to all other governments.

Mr. FRALICK was in favor of the article as it stood, and none other. He believed that nineteen twentieths of the foreigners cannot get a knowledge of our institutions short of that time. When we became a State we were in a different situation. There were very few but what were natural born citizens, or who had not resided a long time here. If the right of voting is worth any thing, guards should be thrown around it. Our rights may be voted away by this class of voters. He [Mr. F.] did not believe that the most respectable class of foreigners wished it; for their own credit they wished that they should be informed. It is not desired by the best class of foreigners that the right of suffrage should be made too cheap. It is too much like driving cattle to market. They are imposed upon by designing demagogues. They do not appreciate the right so much as they would if they had to wait five years. The voters would be of the best class of emigrants, if required to go through this probation. Mr. F. did not think it was called for, or that it would result in good, or promote the best interests of the State.

Mr. MORRISON moved to amend by striking out "two years," and inserting "one year."

If there was any propriety in granting the privilege to those who had been inhabitants two years, he thought it might be extended to those who had been in but one. He was desirous that it should be extended to those emigrants from Europe who settled here in '49. There were emigrants from Germany and other places, who were well educated, intelligent men, and who were as well acquainted with our institutions as many of our citizens.

He [Mr. M.] would ask, who are the men that have emigrated from Europe? They are those who have been trodden down and crushed by tyranny. The liberality of Michigan has induced thousands to settle in this Peninsular State. That

foreigners should be here five years, to know what is required of them before they can exercise the elective franchise, is too much. He knew many foreigners who had studied the English language, and the institutions of this country, and who were as well informed as many who were born here, and who would exercise the privileges they may be permitted to enjoy with as much propriety.

Mr. N. PIERCE said he knew the present constitution was a liberal one, and he thought it was right. When we came into the Union there were but few here who came from other countries. It gave us more numbers and efficiency. But we have become more numerous. Many have come in since, and the constitution did not apply to them; they have had to look on or comply with the United States laws. It is better to adhere to these laws, and not jump off. We have become so numerous that we can carry on the operation systematically now. Let them who have come in since, take up citizenship under the United States laws. Better leave the election law as it is. It seems to me it is better. It seems to me it is consistent. I have nothing to say about the intelligence of foreigners; but if the law of the United States is proper, we should comply with it; if not, we should ask Congress to alter it.

The motion was lost.

Mr. GOODWIN moved to strike out "two years next preceding the adoption of this constitution," and insert "one year prior to the signing of this constitution."

Mr. G. said it would be perceived that the proposition he offered, if adopted, would give the right of suffrage to all aliens who should have resided in the State one year previous to the signing of the constitution. When our present constitution was formed, when the general qualification of electors required citizenship, a provision gave to all the white male inhabitants above the age of twenty-one years, residing in the State at the time of the signing the constitution, the right of suffrage. This was adopted under these considerations. In the enumeration on which was based our claim to admission into the Union, aliens were included; and when the constitution was under consideration, it was supposed that all the inhabitants participated and turned their attention to it, and that

they were better prepared to vote than if they had resided here a much longer time when constitutional questions were not agitated. In that view, the provision was inserted in the old constitution, and adopted with it.

Sir, (said Mr. G.,) there are in the city in which I am a resident, a great many aliens who are active, intelligent and industrious; who participate constantly with us in public affairs, and take an interest in the affairs of the State. Their friends and connexions in the country take an interest also in public affairs, and an interest is extended to the various subjects connected with the revision of the constitution. The same reasons I had reference to in the first constitution, apply to the present. Take the period of one year—they will have been here when the act passed the Legislature for holding a Convention, and during the election of delegates to the Convention; here, also, while the subjects are before the Convention, and in common with others, have their attention turned to them.

Hence, in reference to a large and valuable class of society, to which I have alluded, and also in reference to those views which were entertained at the framing of our first constitution, I propose the amendment. Instead of giving the privilege of voting to those resident at the time, we will take in only those who were here during the whole process and discussion in the framing of the constitution.

The question was taken on the motion of Mr. GOODWIN, and lost.

Mr. WALKER moved to strike out "has resided," and insert "shall have resided;" also strike out the words "next preceding the adoption of this constitution."

Mr. WALKER would extend the provision, and make it applicable to all future time. A large number of emigrants are coming in and settling in our northern counties, with none among them entitled to hold office. Still they are brought under taxation, and he [Mr. W.] did not think it proper, or for the interests of the country to cut them off for five years from the rights of citizenship. If the principle of the amendment were adopted, its action would be self-regulating. If the principle be correct, as applicable to those now resident, there could be no reason assigned

why the same relief should not be granted to those coming in hereafter. It would hold out inducements for the better class of emigrants from Europe to settle among us—those who come with a desire to enjoy the privileges of our institutions. But, from whatever motives they come here, it is the best policy to allow them as soon as may be, to acquire information and participate in the affairs of government. If we adopt the proposition of the gentleman from Oakland, and do not extend it hereafter, we shall soon have whole communities in the same situation as those mentioned by the gentleman from Saginaw—large communities without one person among them qualified to hold the office of tax collector.

Mr. W. believed if a more liberal policy were adopted, it would be an inducement for a more respectable class to settle in Michigan.

Mr. HANSCOM was disposed to be liberal; but as far as he knew, the right of franchise was considered the most important. We have gone further than any European government—we allow foreigners after a residence of five years, and going through certain forms, to enjoy all the privileges of citizenship. The gentleman from Macomb asks, if the principle be good, why not apply it to all future time? The reason is obvious. I would [said Mr. H.] put another limitation beyond the limit of two years. I would require them to file their intentions of becoming citizens; not that I think it important, but as proving that they estimate the benefit, and have the disposition to exercise the right of voting. Suppose a person should remain here ten years and be so indifferent to this matter as not to file such declaration—would it not argue as to the person who had neglected those forms, a perfect indisposition to become acquainted with our institutions?

While I would go thus far, I would not place such power in the hands of a body of men who cannot speak our language, and who may override all the institutions of our country. The gentleman says it is hard not to allow them this privilege, as we are going to tax them. Well, sir, what government ever existed, where a person was allowed citizenship in five years, except in the case of individuals, and by special enactment. I believe in throwing some guards around the elective franchise. We

should require some intelligence—some little training—some knowledge of our affairs amongst our Dutch and German population, before we extend the privilege to them. We should say to them, “unless you become naturalized you shall not have the control of our government; we will reserve it for our native born citizens, and to those who have become citizens.” Would it not be doing injustice to those who have become citizens? There is a point beyond which it might be dangerous to go.

The amendment offered by Mr. WALKER was not concurred in.

Mr. WITHERELL moved to amend section 1, by inserting after “aforesaid,” in 5th line, “but no person not a citizen of the United States shall be allowed to vote after he may have resided five years in this State, unless he has or shall become naturalized.”

Mr. W. said, under the proposed amendment, all those who have now the right to vote under our present constitution, and who have not thought proper to become naturalized, would be compelled to do so. When we commenced our State government, the right of voting was extended to all our inhabitants. There are many residents in the State who have the right of suffrage under the old constitution, who will not become naturalized—who owe allegiance to foreign governments. They owe no allegiance to the United States. They cannot commit treason against this State, or the United States. This should not be allowed. We extend to them the right hand; we wish and ask them to come and settle among us, provided they take the opportunity, as soon as the law will allow, of becoming citizens. They have all the privileges, without the inconveniences. The proposed amendment would obviate the difficulty. They could not be voters after five years, unless they became naturalized.

Mr. BEESON thought the principle in the amendment offered by Mr. HANSCOM, wrong. He was for protecting the citizens of the State in the privileges they now enjoy. Take some of our western and northern counties; we run the risk of throwing our present citizens into the power of persons who may come here from other countries.

The amendment offered by Mr. WIRRELL was lost.

Mr. HANSCOM'S amendment was then negatived.

Mr. BEESON moved to insert in the 5th line, after the word "election," "if citizens of the United States." He offered it merely to perfect the present section.

Mr. ROBERTSON—That would exclude the descendants of citizens from voting.

Mr. BEESON modified his amendment so as to read "if born within the United States."

The motion did not prevail.

Mr. STOREY moved to strike out the last clause—"who shall have resided for ten days next preceding the election."

Which was lost.

The question was then taken on the substitute offered by Mr. RAYNALE, which was negatived.

Mr. ORR moved to strike the word "white" out of the first section.

Cries of "question, question."

Mr. LEACH hoped gentlemen would not be in such hot haste to have the question taken. There were some who felt an interest in it. He wished to say something on it himself. As the hour for adjournment had arrived, he would move that the committee rise and report progress. Lost.

"Question, question, question."

Mr. N. PIERCE felt bound to advocate the motion. He knew some men who were not so white as others. It might abridge some of their rights of voting, if challenged. He did not know to what grade of color it should apply, as white was no color. Some definite rule should be applied or some persons might be prohibited from voting who should vote.

Mr. GALE rose to say that he was really desirous that Mr. LEACH might have an opportunity of discussing the matter—it was due to him in courtesy.

Mr. WILLIAMS said the petitioners on the subject on which the gentleman from Genesee wished to speak, numbered over six times more than all the petitioners on all the other subjects which had occupied the attention of the Convention.

Mr. S. CLARK hoped the gentleman from Genesee would be allowed to express his views on the subject. It was a subject of much importance. He moved that the

committee rise and report back "Article —, Seat of Government," and ask to be discharged from its further consideration, and also report progress on "Article —, Elections," and ask leave to sit again.

Which was agreed to.

On motion of Mr. KINGSLEY, the Convention adjourned.

Afternoon Session.

The Convention was called to order by the PRESIDENT.

The article entitled "Seat of Government" was ordered to be engrossed for a third reading; when,

On motion of Mr. CRARY, the 37th rule was suspended.

The question being, shall the article pass, it was decided in the affirmative by a unanimous vote.

Mr. N. PIERCE offered the following:

Resolved, That the vote of this Convention to adjourn from Monday, July 1st, until Saturday, July 6th, be and the same is hereby rescinded.

Mr. P. was desirous that the resolution should be rescinded. If members wish, they can go home. A minority of the Convention could adjourn from day to day, and it might gratify them to meet every day in the Hall.

Mr. S. CLARK hoped a vote would be taken without debate.

Mr. HANSCOM said every delegate well knew that the Convention would not meet during the next week. Why not call every thing by its proper name?

Mr. ALVORD was prepared to go for rescinding, though he was aware it would amount to the same thing. A quorum would not be here next week.

On motion of Mr. RAYNALE, the Convention resolved itself into committee of the whole on the general order, Mr. J. BARTOW in the chair.

"Article —, Elections," being under consideration, and the question being on the motion of Mr. ORR to strike out the word "white," in section 1,

Mr. LEACH said—It is not my intention to enter into a lengthy discussion of the merits of the proposed amendment. I consider it wholly unnecessary to do so, and shall not long detain the committee.

It has been suggested to me that it would be useless to say anything whatever on the subject; that the amendment would not be made; and that all time spent in discussing it would be spent in vain. Now, it is true that I have but little hope that this word "white" will be stricken out; but, in my humble opinion, the probability of defeat is not a good reason why the friends of the measure should neglect or refuse to make the effort. If we make the effort—if we state our position and adduce facts to prove the correctness of our position—if we use our influence and our votes, and then fail, the responsibility will rest upon others, and not us. We shall have discharged our duty to our constituents and our State, whatever may be the final result.

I am one, sir, that believes this amendment should be made. Nor am I alone in this opinion. Very many of my constituents—I trust a majority of them—agree with me in this matter. I judge this from the fact that every man who voted for me was familiar with my views upon this subject, and very well knew what my course would be in relation to it. Hence, in advocating the extension of the right of suffrage to the colored citizen—to all citizens, without regard to color—I am not only obeying the dictates of my own conscience, but am doing that which my constituents expect at my hands, and which, I have reason to hope, will meet with their approval.

But, sir, I am not entirely without hope of the success of the pending amendment. This is a democratic Convention, and if the spirit as well as the name of democracy is here in the ascendent, I do not see how the measure *can* fail. It is emphatically a democratic principle; it is an attempt to extend to a class of our citizens a right of which they have long been deprived, and to which they are as much entitled as any member upon this floor. Why, then, should we anticipate defeat? Why lay down our arms and surrender without an effort?

Sir, we have heard much about progress and progressive democracy; and I trust it is not all idle talk. It means something—it means more, perhaps, than conservative politicians are willing to admit. It is an age of political and governmental pro-

gress. The course of events in our own country attests it; the movements of politicians and people in the old world demonstrate it beyond the possibility of a doubt. Everywhere the people are awakening to a sense of their rights. The most ordinary observer cannot have failed to perceive this, nor the most obstinate conservative to admit it as an established fact.

The same ardent love of liberty, the same bitter hatred of oppression which led to the separation of the American colonies from the mother country still exists. Their strength has increased with age, and they have spread to other lands and are lodged in the hearts of the people of other climes.

Sir, the principles to which I refer are embodied in the Declaration of American Independence. I am aware that this reference to the Declaration is a common affair, but that has become a political text book to the American people. The anniversary of our national Independence is at hand; and then, sir, amid celebrations and rejoicings, these truths will be proclaimed in all parts of our country. From Maine to Mexico, from the Atlantic to the Pacific, man's inalienable "right to life, liberty, and the pursuit of happiness," will be asserted by a thousand orators, and received as undoubted truth by a patriotic people. And it *is* truth. It is a reality and a truth worthy of every man's consideration.

Sir, what led to the declaration of these truths by our forefathers? Simply the assumption by Great Britain of the right to bind the colonies "in all cases whatsoever,"—of the right to tax those to whom the privilege of representation was denied. And it is against this very principle of taxation without representation that I, and all who act with me in this matter, enter our protest. The American doctrine, as promulgated by our fathers, and generally admitted by us, is that taxation and representation are twin sisters, and should ever go hand in hand. Taxation without representation is rank injustice. All admit this to be true in most cases, but I do not see how it can be departed from at all, in any case, without gross injustice, and absolute danger to our free institutions. To foreigners who come among us we extend the privileges of naturalization and of citizenship. We say to them that they must bear a fair proportion of the expenses of

government, but we will not impose these burdens upon them without granting them all the rights and immunities of native born citizens. By complying with the reasonable requirements of our naturalization laws, they become citizens, and cannot be taxed without their own consent. This, sir, is right; it is liberal and just. We lose nothing by being liberal to foreigners, to all who come among us and adopt our country as their home and the home of their posterity. Instead of keeping them among us as aliens and enemies, we make them good citizens and firm friends.

Mr. Chairman, taxation for the support of government is absolutely necessary. All countries have found it necessary. We must have legislative, executive and judicial officers, and as these officers serve the people, it is but just that they should derive their support from the people. Now, there is no other equitable way of apportioning these taxes among those who are protected by the government, than by causing every man to pay in proportion to the value of his possessions. The property of the State should support the government of the State, and, as I remarked yesterday, should educate the children of the State. Taxation should not be borne exclusively by any particular portion of the people. All should contribute according to their means. And such is the case; all do contribute according to the value of what they possess, and consequently in proportion to the amount of protection which they receive from government.

Now, sir, as all aid, or are liable to aid, in the support of government, where is the justice in excluding any particular class from a voice in the election of the officers of government? Why deprive a particular class of the privileges of the elective franchise? And why, especially, make the color of a man's skin the test of his qualification for discharging the duties of an elector? By what principle of democracy—by what principle of equity is this test sustained? If there is to be a distinction made—if one class in community is to enjoy privileges which are denied to others, let us have a rule adapted for determining who are to be the favored ones, which shall at least have the appearance of being rea-

sonable and just. The distinction as now existing, founded on color, is ridiculously absurd, and radically unjust. It originated in prejudice, and it is sustained by prejudice. No other reason can be given for the adoption of this test, nor for its continuance to the present time.

Sir, let us look at a few of the objections that are made to extending the elective franchise to colored persons. We hear it said by many on all sides, that their immorality and intellectual inferiority disqualify them for the discharge of the duties of an elector. Now, of some colored men, this is unquestionably true. And it is equally true of some white men. We find some Germans, French, Irish, English, Scotch, and native born Americans, who are entirely unfit and incompetent to discharge properly the responsible duties that devolve upon every freeman. But do we proscribe the whole class on this account? Do we even deny the right of suffrage to the individuals themselves? Do we say to the unfortunate Irishman who has sought in our country that freedom which is denied him in his native land, because he cannot read our language, or perhaps cannot read at all, that all political rights are denied him? Do we say he shall never approach the ballot box as a citizen? shall never participate in the election of those who are to make and execute the laws under which he is to live? But, sir, I have yet to learn that our colored population, as a class, are more immoral than those of a lighter color. One thing is certain; many of our best and most intelligent and influential citizens, in those parts of the State where the colored population is most numerous, consider them competent to discharge properly the duties of electors, and ask us to extend to them this privilege. I hold in my hand a petition from four hundred and twenty citizens of Wayne county, and among the names I recognise those of many individuals of high standing—names with which we are all familiar, as individuals of talent and influence. Nor are these petitioners members of a single political party. They are members of all parties, and to some extent may be supposed to represent the feelings of all parties in the vicinity from which the petition comes. I will read the petition, which is as follows:

"To the Honorable the Constitutional Convention of the State of Michigan:

"The undersigned citizens of Michigan, county of Wayne, entitled to the elective franchise; respectfully represent:

"That there is a class of persons in this State, differing from us in color, which, as a class, is peaceable, industrious and rapidly improving in its condition as to education and otherwise;

"That, although colored persons are subjected to taxes and all the burdens of government, they are excluded from all participation in its administration;

"That the mere color of the skin seems a very arbitrary rule for granting or withholding the elective franchise; and

"That taxation without representation has never been considered a republican doctrine.

"Your petitioners hope this subject will receive the candid and dispassionate consideration which its importance demands; and that the right of suffrage may be extended to persons of color, under such modifications and qualifications as a just regard for the principles of civil liberty and due consideration for the public good may seem to sanction and require."

Now, Mr. Chairman, I ask the careful attention of delegates to the phraseology of this petition.

Mr. BAGG—Will the gentleman read the names of the petitioners? Coming, as it appears to, from my constituents, I should be glad to know who they are.

Mr. LEACH—That, sir, would require much time, as there are over four hundred of them. Among them, however, I find the following, viz: John Ladue, George R. Griswold, E. Farnsworth, Dr. Duffield, James F. Joy, H. H. Emmons, George C. Bates, A. S. Williams, J. Owen, and others equally well known; equally competent to judge, and honest to decide. Here, sir, we have the testimony of men in whose judgment, sincerity and honesty, we have the utmost confidence. But, aside from this testimony, every man's observation has convinced him that there are many, very many colored men, whose intelligence and high moral worth would place them in the first rank of society, were it not for the color of their skins.

I hold in my hand, sir, the Senate and House documents of the Legislature of

1845, in which I find a report on the subject of colored suffrage, made by Dr. Denton, a democrat of high standing and of the strictest integrity. Speaking of the alleged inferiority of the colored race, he says: "Neither history nor experience sustains the objection. On the contrary, they conclusively refute it. Like other nations, Africa had her season of glory. During it, she was one of the most powerful nations of the world. Her victorious arms had nearly annihilated the Romans. Her black Hannibal will ever be found in the catalogue of the Cæsars and Bonapartes."

A MEMBER—That is incorrect. Hannibal was not a colored man—not a negro.

Mr. LEACH—Well, I am quoting democratic authority, which, I suppose, is the very best kind to quote to a democratic convention. I hope democrats will not question such authority. But the report continues:

"In modern times, one of the greatest writers of the day, celebrated for his intellect and brilliant talents, amid the most brilliant capital in the world—Paris—is Alexander Dumas, a colored man. Europe's first men deem his acquaintance an honor. Many other instances might be mentioned. In this State the objection is decisively exposed by the public exhibition of high talent in public men, under the most unpropitious circumstances. The committee allude to the many public addresses in the State, by persons born in slavery, and denied education.

"In estimating the intellect of colored men, sufficient allowance is not generally made for the effects produced on a race by continued servitude and a denial of education during a series of generations. Reverse the situation of the African and the European—make the one the master, and the other the slave for centuries, and the white man will possess the supposed characteristics of inferiority. To illustrate this, the committee quote the following passage from the celebrated American traveler, Stevens—see his "Greece, Turkey, and Russia;" vol. 2, Harper's edition, page 40:

"I was forcibly struck," says he, "with a parallel between the white serfs of the north of Europe and African bondsmen at home. The Russian boor, generally wanting the comforts which are supplied

to the negro on our best ordered plantations, appeared to me to be not less degraded in intellect, character and personal bearing. Indeed, the marks of physical personal degradation were so strong that I was insensibly compelled to abandon certain theories not uncommon among my countrymen at home, in regard to the intrinsic superiority of the white race over all others. Perhaps, too, this impression was aided by my having previously met with Africans of intelligence and capacity, standing upon a footing of perfect equality as soldiers in the Greek army and the Sultans'."

Other testimony might be adduced; but it is wholly unnecessary. We make color the criterion by which to judge of a man's intelligence; but on investigation find that the color of his skin is not an index to the capabilities of his mind. Hence, this objection to negro suffrage amounts to nothing. We might, with equal propriety, make some other physical peculiarity the standard by which to measure a man's rights. Why not take the color of a man's eyes or hair? Why not say that he who has a Roman nose, or a Grecian nose, or a red nose, shall not enjoy the privileges of an elector? Indeed, in very many cases, a red nose would be a far better reason than a black skin for rejecting a man's vote.

But there is another objection, sir, which is always made when the extension of the elective franchise to the African race is spoken of. Thousands there are who raise their hands in holy horror at the thought that it will fill our State with negroes. "We shall be flooded with them," says the objector. "They will come upon us in swarms, like the locusts of Egypt, until the land will be darkened." Now, Mr. Chairman, I have no such fears; and the fears of the most nervous objector may be quieted by referring to States where negroes have long enjoyed this privilege. We there find, sir, that it has no influence—I think I may safely say *none*—upon the increase of the colored population; and I ask the careful attention of the committee to the *facts* which I am about to present to prove the correctness of the assertion which I have made.

Since 1792, suffrage in New Hampshire has been unrestricted. Every male citizen

twenty-one years of age is a voter. Connecticut has been less liberal. Her constitution, like our own, restricts the right of voting to "white" persons. Now, sir, let us compare the statistics of the colored population of these two States for a period of forty years, and see, if we can, what influence, if any, the different provisions of their constitutions have had upon the increase of the colored population. In 1800 the free colored population of New Hampshire was 818. In 1810 it was 970, showing an increase in ten years of 152, or 19 per cent. In 1800 the free colored population of Connecticut was 5330. In 1810 it was 6453, showing an increase in ten years of 1123, or 21 per cent. In 1820 the free colored population of New Hampshire was 986, showing an increase of only 16, or less than 2 per cent., while in the same period of ten years, the same class in Connecticut had increased to 7844, showing a gain of 1391, or 19 per cent. In 1830 the colored population of New Hampshire was 604, being 382, or about 33 per cent. less than it was ten years previous. In the same period the colored population of Connecticut had increased from 7844, to 8047, being a gain of 203, or about 3 per cent. In 1840 the colored population of New Hampshire had fallen to 537, showing a loss in ten years of 67, or over 10 per cent., while in the same period, that of Connecticut had increased to 8105, showing a gain of 58, or 1 per cent. During the whole period of forty years, from 1800 to 1840, the free colored population of New Hampshire had fallen from 818 to 537, showing a loss of 281, or 33 per cent.; while during the same period that of Connecticut had risen from 5330, to 8105, showing an increase of 2775, or about 50 per cent.

Mr. CRARY—It is climate that makes the difference.

Mr. LEACH—Yes it is climate. We have an admission of the fact—an admission which I did not expect; but the facts bearing upon this point are so strong, and point so clearly to the conclusion, that gentlemen are constrained to admit its legitimacy. *It is climate.* This is just what I wanted to prove. It is some other thing than the elective franchise alone, that influences them in their choice of a home. They are governed in their choice of a home by

the same considerations which influence us under similar circumstances. So it is in the New England States, and so we have reason to believe it is in all the free States, and in our own. Notwithstanding this, I am willing to admit that some may come among us on account of this privilege, should it be extended to them; but the number thus influenced will be small; and those who would come under such an influence, and who would appreciate the privilege of the elective franchise, would be superior in point of talents and principles to the general mass. From such men we have nothing to fear.

The objection that extending to them equal political privileges would cause an increase of our colored population, is the greatest one that has been urged against the amendment. I have endeavored to show that it is without foundation. Experience in the New England States, where a fair trial has been made, demonstrates that the increase and decrease of that class depends upon other causes and influences than the granting or withholding of the privilege of voting—that the objection does not exist. If, then, the objection has been removed, why may not the privilege be extended to them? Surely we do not wish to trample upon their rights. I have, sir, too much confidence in the justice and liberality of the people of Michigan to believe that they are willing to trample upon the rights of others, unless they consider their own in danger. Africans are men, and have rights. They, sir, are naturally entitled to all the rights which you and I, as individuals of the white race, can claim—to life, liberty, and the right of self government—a fact too often overlooked in discussions on this subject, but a fact which you have acknowledged in the bill of rights. It is there asserted that “all political power is inherent in the people,”—not the white people, nor the black people, to the exclusion of the other class, but in all the people, including every individual of every color and condition.

It is also there declared that “no man nor set of men shall be entitled to exclusive privileges.” Now, sir, consistency requires that you should amend the bill of rights so as to read that all political power is inherent in the *white* people, and that no set of men except *whites* shall be entitled

to exclusive privileges, or, as justice and an enlightened liberality dictate, carry out the spirit of the bill by allowing all men to participate in the privileges and blessings of self government.

I have thought it my duty to speak in this Convention in behalf of the down-trodden and oppressed. The colored people are few—they have no chance to plead their own cause—they are not represented here. There appears to me to be something small in excluding so small a part of the people from the exercise of their natural rights. It seems an act of “unutterable littleness” to trample on the rights of the weak—an act condemned by every principle of justice, right, and republicanism—an act destitute of every vestige of honor, unless there is honor in the triumph of the strong over the weak, of the giant over the infant, of tyranny over justice.

I know that the committee have reported a separate article, referring the question to the people. If the pending amendment does not prevail, I should wish to have it acted on separately by the people. But I do not approve of deferring it. The question should be settled at once. I would not hold in suspense those deprived of their natural rights; I would not shrink from the responsibility of restoring them, and thereby showing that we are men and true republicans.

Mr. J. D. PIERCE—So long as there are two races, the Caucasian race and the Negro race, they cannot amalgamate. If you give them this right you must give them others. There is a difference between natural rights and legal or political rights, but they are often confounded. The right of suffrage is a conventional right or privilege

He [Mr. P.] would say that justice should be extended to all men; at the same time we are not bound to disgrace ourselves in the social circle, to amalgamate and associate with them. If we give them this right we must associate with them in our churches and our legislature. Why not then give our daughters to their sons, and amalgamate the races? There never was a more palpable perversion of truth than that Hannibal was a Negro. The Carthaginians came from Tyre; they were not of the Negro race.

The gentleman seems to apprehend that

if we do not adopt the amendment, that there may be apprehension that the separate article to be submitted to the people may not succeed. I [said Mr. P.] am willing to submit it to the people and abide their decision.

Mr. LEACH—I regret that anything has been said here about amalgamation. I am not—and I wish every gentleman in this hall to understand me—I am not, never have been, and never shall be an advocate of amalgamation; and it is not right to impute any such principle to the friends of universal suffrage.

Mr. J. D. PIERCE—It would be opening the door to that result.

Mr. LEACH—The view which the gentleman takes is incorrect. We are told if we extend political privileges to colored men, we must also receive them as intimates into our families—must give them our daughters in marriage, and amalgamate the two races. Now, sir, is this the fact? The assumption of the gentleman is, that we must admit into the bosom of our families, and consent to unite with our children in the most sacred ties, all those to whom we extend the right of suffrage. I take this to be a great mistake; and I ask the honorable member if there are not many ignorant and vicious white men to whom he willingly extends the right of suffrage, that he would not receive as inmates of his family, and to whom he would not give his daughter in marriage? We all know, sir, that there are many, very many, of this class.

But, the gentleman tells us there is a great difference between natural rights and conventional rights. Now, sir, it appears to me this is making a distinction where none really exists, particularly as applied to this subject. I hold that right is always right—wrong is always wrong. What is right for one man is right for all men; what is granted to one man should be granted to all. We have no right to make such distinctions as some gentlemen seem anxious to make in this matter. But if there is a real difference between natural and conventional rights, all men certainly have the same natural right to enjoy these conventional rights, because the father of democracy tells us that “all men are created equal.” Make this distinction now and what is the next step? Why, perhaps to

disfranchise the poor man, or the man of some particular religious sect, or persons holding obnoxious political principles. Thus you may go on excluding one class after another, from all participation in the affairs of government, until nine-tenths of the people are disfranchised. Sir, the only safe course is to be liberal and extend the right of suffrage to all.

Mr. BAGG—Mr. Chairman: When I find a petition from the city of Detroit, having so many respectable names attached to it, I feel called upon to say something on this sable question. I am opposed to the amendment for ten thousand reasons, but I shall not give them to day. I shall not go to the zoophyte and trace up the numerous gradations in animal life to our noble selves, and say what rank the African holds in the chain. It is sufficient for me to know it is not expedient to adopt this proposition. Suppose you strike out the word “white,” how long would it be before the whole State would be clothed in mourning—from the southern States to Canada, north and South. As they came in, the white man would recede; and where would be our beautiful peninsula? It would be peopled with these dark bipeds—a species not equal to ourselves. Is there any one who will say the African is of the same race as ourselves? No sir. No man on this floor. No sir; the God of Nature has stamped them so differently that they cannot amalgamate and run together. No sir. Can the African change his color, or the leopard his spots? They cannot amalgamate together without being mechanically suspended. As soon as you open the door and allow them to vote, they have a right to be voted for. They would be competent to be elected to the office of Governor or Senator. This opens the door, and you have them in your social circle. What man would like to see his daughter encircled by one of those sable gentlemen, breathing in her ear the soft accents of love? It is enough to say that we cannot admit them to political privileges without letting them into our social circle, which would, on account of the antipathies which the God of Nature has implanted between the races, be productive of nothing but misery.

The Declaration of Independence has been referred to, which declares that all

men are born free and equal, &c. But sir, it refers to the white man—to the Caucasian race. Jefferson had his slaves; so had Washington. Those who claimed their independence had slaves. Do you believe that they meant that negroes should come in and vote with us? No man will believe it.

Again, sir: our constitution is based on slavery. It took seven years to frame the happy constitution under which we live. In one part of the constitution this class is considered as chattels. We all take the oath to support the constitution, from the Governor to the fence-viewer. Would it be well to take this class, considered as chattels in the constitution, and allow them to vote with us, and take them into our social circles? Would it not be a happy comment on our oath to support the constitution of the United States? It strikes me we should be in an awkward position. I am willing that those Africans should remain with us, mechanically suspended. I would educate them and exercise benevolence towards them. No man would go further to educate them. Although it looks to us and to other nations as a black spot on our natural escutcheon, I believe there is the hand of Providence in it. I believe the African has come here to be educated in this country for a great purpose. When he shall be raised to a certain state, in comparison with our own, he will go back to Liberia—to Africa—to find the source of the Nile, which has never been found by those barbarous tribes.

Mr. LEACH—Mr. Chairman: The constitution of the State of Ohio reads like our own—"every white male," &c. And what has been the practice under it? Those in whom white blood predominates, have, by their courts, been declared white men; and it is said—with how much truth I know not—that so much difficulty was experienced in determining whether white or black blood predominated, that it has lately been decided that colored persons in whose veins flowed *any white blood at all*, were entitled to the privileges of electors. We may expect to meet with the same difficulties here, unless the pending amendment prevails.

I am surprised, sir, at the remark of the gentleman from Wayne, [Mr. BAGG,] that the author of the Declaration of Indepen-

dence, in asserting that "all men are born free and equal," referred only to "all white men—all men of the Caucasian race." This is, most assuredly, one of the most remarkable and profound discoveries of the present age. If the gentleman is correct, (and it would seem almost an unpardonable offence to question wisdom so profound, learning so deep, and so "miscellaneous,") if he is correct, I would very humbly suggest the propriety of so amending the article under consideration, as to have it correspond with the improved interpretation of the Declaration of Independence, and extend the right of suffrage to all men of the Caucasian race.

Mr. Chairman, I cannot pretend to follow the gentleman in all his wanderings; and in fact I am compelled to acknowledge my inability to understand all that he has said. What does the gentleman mean by "mechanical suspension" of the African race? Perhaps he meant "magnetical."

Mr. BAGG—There is repulsion, but no attraction.

Mr. LEACH—To me the argument, if not overwhelming, is incomprehensible; and by some unseen force—some principle of adhesion—whether "mechanical" or "magnetic," I cannot say, I am compelled to adhere to my original purpose, vote to strike out the word "white," and thus generously extend to every citizen of our State the inestimable privileges of a freeman.

Mr. BRITAIN said the petition was signed by several distinguished citizens of Detroit; he wished to know what the petition asks for.

The petition was read.

Mr. WHIPPLE—I understand that the citizens of the county of Wayne who signed that petition would represent that there is a class of persons in this State who are taxed, and who ought, on that ground, to have extended to them the right of suffrage.

Mr. BRITAIN—Who ever heard of a colored person being taxed in Michigan?—one who ever paid a poll tax, or whose name was enrolled in the militia, or who was called on a jury? No, sir, he is not taxed—his property has been taxed, not the man—and the tax is paid for the protection of the property, and because it costs something to protect his property.

This is a principle established in all enlightened countries. You tax persons who have no property to bear arms, to serve on juries, to work on the roads. So far you tax the poor man and the rich man alike. The tax on property is not a tax on the person, but for the defence and protection of property. On no other principle can it with justice be levied. Colored men have not been taxed, and it is not proposed to tax them.

The gentleman from Genesee [Mr. LEACH] says some objection is made to the extension of the right of suffrage to them because they are a degraded race—that they are below the white race in capability for intellectual improvement. Whether that be so or not, I leave to the Convention to decide; but every person must come to the conclusion that the colored race must be called to intellectual pursuits for a long series of years to attain that position in the intellectual world which the white race have attained, unless the original stock of the colored race is much better than that of the white race.

The gentleman from Genesee says, why make color a qualification?—why not the color of his hair, his eyes, or his nose? The simple answer is this, the word *white* has, when used in this Convention, acquired by common consent a technical signification. It distinguishes our own race from other races. Our own race we call white, and other races colored. There would be no advantage in adopting any other term.

Mr. Chairman, there are a few general principles connected with this subject, which ought to be examined. I know it is considered a difficult and even delicate subject to examine; but I know of no reason why it should be so considered, and am willing to come up to the standard of duty and endeavor to meet conscientiously all the responsibilities it presents.

Our sympathies are always excited for the weak. We sympathize with this class because they are said to have been cruelly brought into our country in the first place, and subjected to slavery; an outrage on their natural rights. But how is it, sir? Are they abused by being brought from the slavery of Africa to the slavery of the United States? Were not their forefathers slaves in Africa? All that read African history know that they are at the mercy

of their African chiefs, both in respect to life and liberty. An African prince, on any important occasion, sends out his men, captures and brings in as many victims as he pleases, and their heads grace his festival.

Mr. Chairman, the slave of Africa is a slave to a master who recognizes no human rights except those sustained by physical power; and who, like the Deity of some of our modern worshippers, considers himself at liberty to do anything and everything "for the promotion of his own glory." Can it be possible that the condition of the slave is made worse by bringing him to the United States? The answer must be in the negative.

How are these slaves obtained. A prince wishing to make a slave speculation, makes war upon a neighboring prince, captures his men, and drives them to the coast, as your drovers drive cattle; and so entirely subject to their will do these slave drovers consider their prisoners, that on finding the coast guarded by a squadron, and no slaver there to purchase the prisoners, these drovers have butchered their prisoners as the easiest way to dispose of them, saying that they were theirs, and if the foreign authorities would not permit them to sell them they would kill them.

If that be so, it must be admitted that their condition could not be made worse. On the other hand, it certainly has been made much better.

This, then, relieves us from the reproach so often cast upon us, of robbing them of their freedom and subjecting them to slavery. Mr. Chairman, they were slaves at home; captured as slaves, driven to the coast as slaves, sold as slaves, and brought to this country as slaves; and all this by others; and the present inhabitants of the United States found themselves inheriting them as slaves. And this slavery, as already stated, is much more tolerable than that of their relatives who have been left at home to groan in African bondage.

The colored persons who ask you to extend the elective franchise to them, are descendants from this slave population, and consider themselves much better situated than their forefathers in Africa, or their brothers in Southern slavery; and in fact they may with propriety be considered the

most favored portion of the African race. Having now, Mr. Chairman, as I think, relieved my fellow citizens from the unjust charge of oppression, in bringing them into this country, we may, I think, enter upon an examination of the relations existing between them and ourselves, and if possible ascertain the extent of an obligation to extend further rights and privileges to them.

Mr. Chairman, are you bound to force upon a people privileges which they do not seek, and which they are incapable of maintaining? I apprehend that a correct answer to this question will go far towards showing the relation subsisting between them and us, as well as our obligations to them.

If you are so bound, you should go and plant the standard of republicanism in that benighted country. You should go and seek out degraded and oppressed humanity, suffering the consequences of its own indiscretions and vices, and force upon them the results of discretion and virtue. Mr. Chairman what are the obligations of humanity? To proffer help to others, but not to force it upon them. If you were to separate from this Union one of the States, populate it with colored people, and give them a Republican government, how long would they maintain it? Will any gentleman say it would be as lasting as ours? The Africans of our country gathered together and furnished with the best government which men can devise, and left to themselves, would soon find themselves under a despotism. The history of the African race, even to the latest period, warrants this conclusion.

If then, they are incapable of self-government, are we bound to furnish it to them and maintain it for them? It would seem to be our duty to treat the colored population with kindness, and to cultivate them by every reasonable means in our power; but it does not seem to be any part of our duty to endanger our own institutions by extending to them privileges which they are incapable of maintaining or enjoying.

The gentleman from Genesee says there are many electors among the white men whom he would not admit to his social circle; and from that, draws the conclusion that you may as well give the right of suffrage to the colored man as to the degraded

white man. But, Mr. Chairman, how often do we see the son of the degraded white man, avoiding the evil practices of his father and become an honor to himself and filling the highest stations in society. I remember now the case of an Irish boy whose father was a man of all work, and a low, dissipated man. The son went into a lawyer's office to sweep, make fires, &c., while attending school. His patron soon discovered his talents and increased his privileges. The student continued temperate and industrious—was admitted to the bar—became eminent in his profession, and connected himself by marriage with one of the most aristocratic families in his county or State. Will the gentleman from Genesee contend for a moment that the son of a colored man could have accomplished this? It is not a question which relates to individuals, but to the races. It is the stock which should be taken into consideration.

Now, Mr. Chairman, how stands the account between the colored people and ourselves? and what are our duties to them? Why, sir, on the score of justice they have no claims upon us, because they are much better situated than their forefathers were; much better situated than their relations in Africa now are, or than these people themselves could have been, had they not been taken from there; and what is still more to the purpose, Mr. Chairman, they are not only much more refined, elevated and happy than they would have been without our interference, but they are much more refined, elevated and happy than they would be twenty years hence, if given the fairest portion of our land, and left to themselves. Is it not clear then, that the obligations of justice have already been more than satisfied; and that the only obligations now resting upon us for the extension of further privileges to them, are the obligations of benevolence and humanity?

I know, Mr. Chairman, that these obligations are firmly and deeply seated in the great American heart; but they demand nothing from us incompatible with our own well being, and the maintenance of our ability to protect these unfortunate people in the enjoyment of their present privileges, which have elevated them above the still more unfortunate portions of their race.

Mr. Chairman, you may tender to a suffering stranger the hospitality of your house, but you do not give him charge of your house, or even divide your authority with him. The master of a ship may tender to a weary traveler a passage to a foreign port, but what would be thought of that ship master who should immediately after leaving port, give up the helm to such traveler, and by that act of kindness suffer shipwreck, lose his own life and the lives of all on board under his protection, not excepting even the traveler himself?

There is an old maxim peculiarly applicable to the present case. It is this, sir: "Charity begins at home." Yes sir, even "charity should begin at home," and with this maxim I propose to see what our duties are to our colored neighbors. All the relations of society cannot subsist between them and us. Sir, you cannot take them into the more intimate relations of society. You cannot associate with them. You cannot live in the same room with them; nor can you live in a settlement, a large portion of which consists of colored people. Within a few years a settlement of several hundred has been formed in Cass county, and the inhabitants, who in the first place, under the influence of their sympathies, welcomed them with open hands, now find themselves unable to live in the same neighborhood, and are selling out their farms at half their ordinary value, in order to get out of the vicinage; and if I can judge from the anxiety depicted in their countenances when speaking of it, they consider the increase of the already flourishing settlement as one of the greatest calamities which could befall their country.

There are about four millions of colored people in the Southern States. There are also many humane persons there who would gladly emancipate their slaves, if they could conveniently find a place for them. If it be desirable to have them here, we have but to invite them by extending privileges to them, to insure an influx which will overwhelm the State.

The gentleman from Genesee said that Massachusetts and New Hampshire extended to them the elective franchise, long since; and yet their colored population did not increase; and then denies that extending to them the right of suffrage would increase

their numbers amongst us. Does not that gentleman know that the regularity, economy and industry of New England, are more than the colored people can submit to? and that they would sooner submit to southern slavery than New England industry and economy? Sir, why do not these colored people go to old England, where so much sympathy has been expressed in their behalf? Because the six pence per day for laborious and incessant toil, would purchase but a small portion of even the coarse fare which the southern slave gets for his half work.

Mr. Chairman, the gentleman is in error. Encourage them, and they will come amongst us. They have been encouraged, and they are coming among us with a fearful rapidity. The gentleman says we extend the right of suffrage to foreigners, and invite them amongst us, and asks us if we are not as strongly bound to extend this right to colored native citizens as to white foreigners? Sir, we are not bound to extend it to either of them; if we do extend the right of suffrage to the white foreigner, we do it as a matter of policy, under the impulses of benevolence, and not as a matter of duty, under the demands of justice. Sir, the white foreigner is our father and our brother; and why should he not be invited amongst us? What have we to fear from an association with him? Why, sir, if the common theories in human philosophy are true, even a little "crossing of the breed" would not disgrace either party! Will the gentleman from Genesee admit this with regard to the colored people? Sir, those best acquainted with matters of this kind, declare that amalgamation degrades both parties; and that the offspring of this heaven forbidden union is usually burdened with a feeble frame, uncertain health, and premature death!—unerring indications of Heaven's disapprobation.

Mr. Chairman, I now wish to ask the members of this committee several questions:

1. Are we bound to injure ourselves to give to any people these privileges?
2. Can we extend these privileges without being in danger of being overwhelmed with a colored population from the south?
3. Can we be overwhelmed by a colored population from the south, without great detriment to the interests of our State?

4. Have we not a right to pursue that course of policy which the interest of the State demands, even though it be to discourage the settlement of colored people in our State? Sir, I think we have; that we do more for these people than they would do for themselves, when we protect them in the enjoyment of a free government; that the extension of the right of suffrage to them is a matter entirely optional with us; that although some of them, by their regularity and industry, give assurance that the right of suffrage might be safely entrusted to them—yet, such is the irregularity, indolence, instability, dependence, subserviency and meanness of the great body of them, as to forfeit all claims to the right of suffrage; and that the best friend of the colored man is the man who with frankness advises him to live industriously, soberly, honestly, contentedly and peaceably, under the government which has been formed and is maintained without tax upon him, or efforts of any kind from him; that although he may live peaceably and happily among us, provided he live industriously and honestly, yet so great is the difference between his race and ours, he can never expect to become one of us; and that if he wishes to participate in all the privileges of a citizen, he should go to some colony of his own people, and carry with him all the elements of self-government for which the people among whom he has been schooled are so favorably known, as well as the assurance that he and his people will have the sympathy, co-operation and assistance of the American people, who are ever so ready to assist when they can do so without too great an injury to themselves.

Mr. Chairman, there is one more question connected with this subject, about which I wish to say a few words before I take my seat. An effort was made in this hall a few days ago, in apportioning the Senators and Representatives to the several districts, to make the colored people a part of the population entitling a district to a Senator or Representative. Mr. Chairman, I thought this wrong then, and voted against it; and I think it wrong now. Why should they be so counted if they are not entitled to the elective franchise? The only correct rule appears to me to be to apportion members, as nearly as may be,

according to the number of voters; and there certainly can be no justice in counting the colored people having no vote in *your* county, against the white people in my county, and thus permit a smaller number of *votes* to elect a Representative in your county than in mine; nor is it a privilege to the colored man to be thus counted; nor will it in the smallest degree advance the day of his political emancipation; but, on the other hand, it will retard it; for those persons who make themselves their political proxies, would be the last to extend to them the right of suffrage.

Mr. WILLIAMS—Will the gentleman allow me to ask him how many representatives in Congress are elected on that principle?

Mr. BRITAIN—Mr. Chairman, the gentleman from St. Joseph asks me how many members of Congress are elected upon that principle. I believe twenty-one; but that has nothing to do with this case, and I am willing to give that gentleman all he can make out of that fact. It is no part of my purpose to defend the apportionment of the Southern States; and if the constitution of the United States sanctions a wrong in permitting the Southern States to make the colored people, having no votes, a part of the population entitling them to representatives in Congress, and thus requiring more northern than southern votes to elect a representative, yet I am happy to say that that same constitution may be right in rejecting aliens from that enumeration. The adoption of that constitution was the result of a compromise between the people of several States, entertaining different opinions upon this subject; but we are not thus situated, and if we adopt a wrong principle in this respect, it must be attributed to our ignorance or considered an intentional deviation from the path of rectitude.

Mr. Chairman, many arguments might be stated to maintain my position; but I will not detain the Convention in that way, and will content myself with a simple illustration, which will, I think, demonstrate to every unprejudiced mind, the injustice of the principle I am opposing.

The gentlemen from St. Joseph and Cass were both of them, if I recollect correctly, in favor of considering the colored population a part of the population enti-

ting them to a representative; but one of them, at least, was not willing to give them the right of suffrage. Now let us consider these counties the residence of a few talented men, ambitious for official distinction, and looking to the colored population as an infallible means of political advancement. Let us suppose these men to be engaged in encouraging the immigration of colored people into those respective counties. As the colored population increases, the white population must decrease. The white population cannot live in the vicinity of colored settlements, and exchange neighborhood civilities with them. Those who know most about such settlements want to have the least to do with them; and I am assured that in Cass county, where a few years ago so much sympathy for the poor colored man and his oppressed family existed, as to induce the formation of a numerous colored settlement, the white people have been brought to a "realizing sense of their situation" when it is too late to retrace their steps, for the colored people have obtained a foothold, and the white people must either exchange civilities with them or sell out and leave; and that they are already selling their farms at reduced prices and leaving the county to get rid of their colored neighbors.

Mr. Chairman, this must continue to be the case. The white people cannot live with the colored people, within the same rooms, or in the same associations. And suppose these ambitious persons to continue to encourage the immigration of colored people to the counties, and the white people continue to leave until there shall be no white people left in them, except these ambitious persons; it is easy to see that these persons would be able by their own votes alone to elect themselves to office.

Will it be said that this would be an extreme case, and not likely to occur? Sir, it is already in progress, and who can set bounds to that colored settlement from which the whites are already fleeing? But the question is not whether such a circumstance may occur, but whether it would be right to give each of these counties a representative, in consequence of their colored population having no votes, and thereby enable these ambitious persons, by their own votes, to elect themselves to your Legislature?

Mr. Chairman, I would like to have some of those who have so warmly advocated the claims of the colored people to a representation in the councils of the State, inform me how many colored people without votes, and one white man with a vote, should entitle a county to a representative, and said white man to the privilege of electing himself such representative by his own vote.

Mr. Charman, if this would be wrong, in the extent to which I have carried it, it would be wrong in any degree, however small, and should not receive the sanction of this Convention.

Mr. Chairman, there are several other questions relative to the civil and political rights of these unfortunate colored people, which I should be happy to examine, but I have already trespassed too long upon the patience of the Convention.

The question was taken on Mr. ORR's amendment to strike out the word "white," and lost.

Mr. RAYNALE offered the following as a substitute for section one:

"In all elections, every white male citizen above the age of 21 years, having resided in this State six months next preceding an election, shall be entitled to vote at such election: and every white male inhabitant of the age aforesaid, having resided in this State two years in all, and having filed his intentions to become a citizen of the United States, shall be entitled to vote at all elections; provided such inhabitant shall have resided in this State for the six months next preceding such election; but no such citizen or inhabitant shall be entitled to vote, except in the township or ward of which he is an actual resident."

Which was not adopted.

Mr. WILLIAMS moved to strike out "or while a student of any seminary of learning," in section 5; which did not prevail.

On motion of Mr. CRARY, the words "Constitution or," were inserted at the end of first line of section six.

On motion of Mr. GALE, the words "*non compos mentis*," in fourth line of section six, were stricken out, and "not of sound mind," inserted.

On motion of Mr. CRARY, section 8 was stricken out.

The resolution referring the question of

extension of the right of suffrage to colored male citizens, to the people at the next general election for their adoption or rejection, was read.

Mr. RAYNALE moved to strike out all after the word "resolved."

Mr. WOODMAN hoped it would not be struck out.

Mr. BAGG hoped it would be struck out. Three-fourths of the people would vote against striking out the word "white," in any law, but it would cause excitement.

Mr. BUSH hoped it would not be struck out. There are many respectable citizens who are anxious to have this question submitted to the people. He believed four-fifths of the people would vote against the proposition; but he wished it to be submitted—it would stop agitation afterwards.

Mr. KINGSLEY said it had been agitated in the Legislature every year for several years past. Submit the question to the people now, and it will stop this agitation.

On motion of Mr. LEACH, the blank was filled with "1st January, 1851."

Mr. WILLIAMS hoped the resolution would be adopted. The committee had a large number of petitions before them, signed by some three thousand persons. A large class wish to vote on this question, and it is right that they should have the privilege.

The motion of Mr. RAYNALE to strike out did not prevail.

Mr. CHAPEL moved to strike out of section 6, the words "or who shall make or become directly or indirectly interested in any bet or wager, pending upon the result of any election in this State," and insert "and for depriving any person who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, from the right to vote at such election."

Mr. C. said he made the motion because betting was associated in the section with infamous crimes. Betting was fashionable in Presidential elections, and many persons have made money by it. I think (said Mr. C.) it is right to shut us up constitutionally. It may do good, but I do not think that a person making a fashionable bet should be classed with those convicted of infamous crimes.

Mr. CHURCH—Did not the gentleman

vote in favor of placing fashionable dueling in the same position?

Mr. CHAPEL—I think not. I always voted for a code of honor.

Mr. GOODWIN remarked that the section only provided that the Legislature might act upon it. It was a power that ought to be retained by the Legislature.

Mr. BUSH said many honorable men made bets on the result of elections. Would gentlemen say, or would they leave it to the Legislature to say, that a man, for a bet, when it is fashionable, or that citizens making a trifling bet, should be proscribed forever? A warm party man might be led into it for the purpose of excluding him from voting.

Mr. N. PIERCE had known females reduced to distress from betting, and it was desirable that they should be protected. This leaves it open to the Legislature; if the people do not want it the Legislature will not pass it.

Mr. CRARY believed it would not apply to the Presidential election, upon the result of which it was most usual to bet. He moved to amend.

Mr. GOODWIN believed it would extend to all elections in this State, although the election may be for President of the United States; though he had no objection to having it made more explicit.

Mr. ROBERTSON saw no object in cutting off a person on account of his making a bet on the result of an election in other States. The object he supposed was to cut off inducements to use corrupt means to affect an election, which a person making a heavy bet might be induced to do. It would be wrong to disfranchise a man because he had bet a new hat on an election.

The amendment was adopted.

Mr. RAYNALE moved to strike out all after the word "State."

Mr. R. said all punishment should be such as to have its effect on the community, and should be complete in itself. It seemed to him to be illiberal and unjust, after a man had suffered what the law required, that he should remain forever a proscribed man.

Mr. HASCALL saw no impropriety in excluding those persons from participating in the government who had set themselves against all government. It shows they are not disposed to be well behaved

or good citizens. On the ground that they had set themselves up in rebellion against the laws of the government, they should have nothing to do in making the laws.

Mr. WALKER believed the object of punishment to be the reformation of crime. If it does produce that effect, we ought not to place odium upon him after he has had the wholesome lesson of instruction imparted to him. It might drive him back to the commission of crime.

Mr. WITHERELL said there were two reasons for inflicting punishment—warning to the community and reformation of the offender. Many cases occurred, where the Governor exercised the pardoning power on persons supposed to be innocent; and there were cases where persons had undergone the whole term of punishment, who were by many supposed to be innocent; in such cases it would be a double hardship if excluded from the right of suffrage on account of the conviction.

Mr. CRARY—After a man is convicted, he is sentenced to punishment as an example to others, and to reform the individual; yet you propose to fix a mark upon him, like that of Cain, which shall follow him through life, though you may have reformed him. If a man who has committed crime shall have been confined so long as to deter others and reform himself, you should not fix a stigma upon him. The probability is that he will not reform, if the people are constantly pointing at the black mark upon him.

Mr. BACKUS said he saw none of the difficulties which gentlemen seemed to apprehend. This provision leaves it in the hands of the Legislature to make provision that persons guilty of infamous crimes, bribery, perjury, and crimes of that class, shall be deprived of the elective franchise. Why should they not? Is a man who has been steeped in crime, and who has just come out of the State prison, a fit person to participate with us at the ballot box, to make our judges and our constituted State authorities? I think not. If a man has been guilty of the crime of bribery or perjury, his ballot should not mingle with ours in perpetuating our institutions.

On motion of Mr. BUSH, section six was stricken out.

On motion of Mr. HANSCOM, the following was substituted for said section:

“Laws may be passed excluding from the right of suffrage, and from holding any office under the laws of this State, persons who may be convicted of an infamous crime, are *non compos mentis* or insane.”

On motion of Mr. WITHERELL the committee rose, reported the article back to the Convention with amendments, asked their concurrence therein, and to be discharged from the further consideration of said article.

The committee, through their chairman, reported the Article entitled “Elections,” with sundry amendments, in which the concurrence of the Convention was asked.

The committee was discharged from the further consideration of the article; and the same was laid upon the table.

On motion of Mr. J. BARTOW, the Convention adjourned.

FRIDAY, (23d day,) June 28.

The Convention was called to order by the PRESIDENT.

Prayer by the Rev Mr. SANFORD.

REPORTS.

Mr. RIX ROBINSON, from the committee on County Officers and County Government, reported the following article, which was read a first and second time by its title, referred to committee of the whole and ordered printed.

ARTICLE —.

County Officers and County Government.

1. Each county duly organized by law, shall be a body corporate and politic, with such rights, duties, powers, privileges and immunities as shall be established by law. All suits and proceedings, by or against any county, shall be in the name thereof.

2. No county now organized by law, shall ever be reduced by the organization of new counties, to less than six hundred square miles.

3. In each organized county there shall be one sheriff, a county clerk, who shall be the clerk of all the courts of record to be held in the county, a county treasurer, who shall be ex-officio register of deeds, one county surveyor, a prosecuting attorney, and one or more coroners, chosen by the qualified electors thereof, once in two years, and as often as vacancies shall hap-

pen, and whose duties and powers shall be prescribed by law.

4. The county clerk, county treasurer, judge of probate and prosecuting attorney, shall hold their offices at the county seat.

5. The sheriff shall hold no other office, and shall be incapable of holding the office of sheriff longer than four in any term of six years. He may be required by law to renew his security from time to time, and in default of giving such security, his office shall be deemed vacant; but the county shall never be made responsible for his acts.

6. A board of supervisors, consisting of one to be chosen from each organized township, shall be established in each county, with such powers, to be uniform throughout the State, as is hereinafter prescribed.

7. All incorporated cities shall have such representation in the board of supervisors of the counties in which they are situated, as the Legislature may direct.

8. The board of supervisors shall have power to organize new townships, and may grant privileges to construct bridges or mill dams, or to lay out roads in their respective counties; but no township shall be organized of less dimensions than the United States survey thereof.

9. No county seat, when once established, shall be removed, until the place to which it is proposed to be removed shall be designated by a majority of the board of supervisors of said county, and two-thirds of the qualified electors shall have voted in favor of the proposed location, in such manner as shall be prescribed by law.

10. The board of supervisors of any county may borrow or raise by tax, ——— dollars, for constructing or repairing public buildings, highways or bridges; but no greater sum shall be borrowed or raised by tax for such purpose, in any one year, unless authorized by the vote of a majority of the electors of said county.

11. The board of supervisors shall fix and define the compensation of the various county officers in their respective counties; and the sum so fixed and defined, shall be subject to no alteration by appeal or otherwise.

12. The Legislature may hereafter confer upon the board of supervisors of the

several counties of this State, such further powers of local legislation and administration as they may deem proper.

Mr. REDFIELD offered the following resolution:

Resolved, That when the Convention adjourn, it shall stand adjourned until Monday, the eighth of July, and that during the said adjournment, the pay of members and officers shall be suspended.

Mr. BAGG offered the following substitute:

Resolved, That the remaining members, and the officers of this Convention have leave of absence till July 6th, to take place from and after the 29th instant.

Mr. B. said that he offered the substitute in good faith. He had voted constantly against an adjournment, and had remained in his place while others had gone home—some, he believed, two or three times. It now appeared that all were desirous of going home, and it would be found impossible to proceed with the business. When he came here, he supposed that six weeks would have been sufficient time to have accomplished their business. Four weeks had nearly been spent, and he did not see but it would require six weeks longer to get through, if there was to be this vacation of seats and this discussion of adjournment. We have been growing "small by degrees and beautifully less," and soon should be without a quorum. It was but to adjourn for the time contemplated in his resolution.

Mr. REDFIELD had voted invariably against an adjournment, until it was evident that a suspension of business was to take place. He thought it was but justice, if the members saw fit to adjourn, that they should not receive their per diem pay while absent from their duty.

Mr. HANSCOM opposed both the resolutions, and any action on the subject. The journals of the Convention would show a vacillation on this question that would make us appear ridiculous. When we were reduced to less than a quorum, if such should be the result, we could adjourn from day to day until members had returned. He had voted against his own judgment for an adjournment, for the accommodation of members who had now gone home, and the inducement for him to thus vote was taken away.

Mr. STOREY moved to lay the whole subject on the table; which was carried—yeas 38—nays 24.

Mr. VAN VALKENBURGH asked leave of absence for Mr. WHITEMORE till the 8th of July.

Mr. S. CLARK said that it was evident that it was the intention of members to go home and still draw their pay. He should oppose all such efforts, for he did not believe it right for members to abandon their duties and still receive the same compensation as if they were at their posts. If members desired to be absent, they should be so at their own expense, and not at the expense of the State. He should therefore vote against the granting of leave of absence to the member desiring it, and against any such privilege to any member, unless called by the sickness of himself or family from his duty. He was willing to stay here and attend to the duties of this body until they were completed; and if other members felt differently on the subject than he did, and were disposed to go home, he thought it no more than justice to prevent their receiving pay during their absence.

Mr. VAN VALKENBURGH did not understand that his colleague had gone home from sickness, but he had urgent business which called his attention; and after the many grants of this kind of favors, he should be extremely sorry to see his colleague refused the same privilege. He (Mr. Van V.) had, when the subject was first acted upon, voted invariably against paying members during the adjournment that had been so much talked of; but as that object could not be obtained, and after so much courtesy had been extended to members, he could not conceive it right to make exceptions now, and under present circumstances objections came with a very bad grace from those who had been home and returned under such leave.

Mr. CRARY said that he thought every man in the Convention stood upon his own honor in relation to his absence. He had opposed an adjournment, because he had been confident that the Convention would complete its labors by the middle of July; and members would see, on looking at what was behind in their business, if all the attention of the Convention had been

directed to their duties, that it was not possible to continue the session longer than that time. The members who desired to go home should have voted themselves no pay, and left those unmolested who remained at their posts. If the Convention adjourned, a number of members could not go home within the time limited; and it would be a great injustice to force the minority to remain here at their own expense.

Mr. BRITAIN submitted the following:

Resolved, That when this Convention adjourn, it adjourn to meet on Wednesday, the 10th day of July next, and that no compensation be allowed the members and officers of this Convention during said adjournment.

Mr. HANSCOM suggested that the resolution was identical, in substance, with the one which had just been postponed, and therefore not in order.

Mr. BRITAIN—Under the time fixed by this resolution, members could leave their homes on Monday, and all be ready to take their seats on Wednesday morning. He had two objects in this resolution. The first was to allow such members as desired to go home to do so; and the second object was to save to the State from four to five thousand dollars. He [Mr. B.] could not go home, but had been ready to vote for an adjournment merely for the accommodation of members, whenever they were willing to do so without pay. He thought it wrong to draw pay for services that were not rendered; and he was willing to remain here on his own expense during the proposed adjournment.

Mr. GALE said there had been nearly as much time spent in discussing this matter as it was proposed to be absent. It appeared to him that injustice would be done by the resolution, for many members had been home once or twice, and members who remained here during the adjournment would be at expense.

Mr. WOODMAN moved the indefinite postponement of the resolution.

Mr. W. wished to see the matter disposed of. He was not in favor of voting to members of professions, who were off on their own business, and making money thereby, their per diem allowance here. Those who stay here should draw their pay; and those who go, should not, during their absence.

Mr. ROBERTS desired simply to say for the members of the Upper Peninsula, that they had voted for an adjournment merely for the accommodation of members.

Mr. N. PIERCE would ask of the gentleman if he could not so modify his resolution as to substitute the 15th of August instead of the 10th of July? It would accommodate the farming portion of the Convention very much better, as by that time they could nearly complete their harvesting.

Mr. BRITAIN said he could not do it, for two reasons. It would bring the remaining part of the session in the most sickly season of the year; and it would bring out the constitution too late for a full canvass of its merits before the fall election.

Mr. STOREY moved that the Convention go into committee of the whole on the general order.

The question was carried by yeas 37, nays 25.

The Convention resolved itself into committee of the whole on the general order, Mr. WILLIAMS in the chair.

Mr. WALKER moved that the committee rise.

Which motion was lost.

The committee took up the article "State Officers."

The question being on the motion of Mr. ROBERTSON, made on the 24th inst., to strike out of the 1st section "who shall be ex officio," and insert "a,"

Mr. ROBERTSON said that there had been certain information called for by the Convention, which was needed in a proper investigation of the subject under consideration. That information has been given and ordered printed, but it had not yet been laid on the tables. It might be proper, therefore, to pass over this article.

Mr. GOODWIN—There is another matter of information which the Convention has taken steps to procure, which might be useful in the disposition of this section. A committee has been appointed to report to this Convention the relative quantity of land received from the general government by this State, as compared with the other north-western States, which report has not yet been made.

Mr. J. BARTOW—The information al-

luded to would be useful; but the simple question as to whether the Commissioner of the Land Office should be retained in the new Constitution, as the head of a distinct department, he thought could be decided with the information that it was presumed every member was fully acquainted. All knew the amount of public lands which we had received from the general government, and for what purposes they were given. The disposition that had been made of them also, was generally understood, and it was not necessary at this time to go into all the details. A very large proportion of the lands had been disposed of, and thus a large share of the duties of such an officer were removed. The remainder would soon be sold. The duties at no time during the existence of the office, had claimed all the time of the Commissioner, and a decrease of the amount of land would be followed by a decrease of the duties of the office. The duties were easy and simple, and could be readily performed by a clerk. If the whole amount of land which the State has received, were at this time placed in the hands of the State, it might be necessary to retain such an officer for a time; but the present position of our lands did not, and could not require the creation or retention of this officer in the Constitution. The whole business could be as well under the superintendence of the State Treasurer, where the report of the committee had placed it, as to have a separate head. Through the hands of the Treasurer all of the money had to pass, and the other duties connected with our lands were not onerous enough to justify the expense, or demand the attention of another officer. He would give way for the reading of the communication from the Commissioner of the Land Office.

Mr. REDFIELD said the last gentleman had submitted all that was necessary to be said. The office could be abolished without any injury to the interests of the State, and be a saving of a very considerable expense. The expense resulting from the provision as reported by the committee, could not exceed forty dollars; whereas, under the system as heretofore existing, it had cost fourteen hundred dollars. It was simply for this Convention to say whether the State would have this department of her business transacted equally

well for forty dollars, or whether it would gratuitously bestow the difference of the calculation upon the head of a separate department. There existed no necessity for the office, and he had no doubt that, under the superintendence of the Treasurer, its duties would be as faithfully performed and as acceptable to the people, as under the system proposed by the pending amendment.

Mr. CHAPEL offered a substitute for the section, providing that the Commissioner of the Land Office should be ex-officio Superintendent of Public Instruction.

Mr. BUSH hoped that the pending amendment [Mr. ROBERTSON'S] would prevail. It was providing for the proper management of the largest interest of the State—an interest that was increasing, instead of diminishing, as had been asserted on this floor. The policy of the State had intended it to be an increasing interest. The lands were sold, and twenty-five per cent paid down, and the land remained security for the balance; which amount was paying its annual interest. Thus a new account was opened at every sale, which of course increased the amount of business in the department. Such was the policy of the State; that the largest share of the amount should be at interest, and secured by the land sold. It was the best policy that it should be so managed. There could be no better security. And thus every acre sold would add to the business of the department; and for a great number of years would this increase go on, till all our lands were disposed of.

What disposition should be made then of this interest? Under whose management should it be placed? It would be better, in his opinion, to place it under the control of a person directly responsible to the people for the proper performance of his trust, and elected with special reference to his fitness for this position, rather than leave it an incident to another department. To accomplish such a purpose he was willing to suffer a trifling expense further—of expending a few more dollars for a public officer than leave it in the hands of a clerk in another department.

Mr. REDFIELD—The proposed expense would be forty dollars, while that now incurred is something like fourteen hundred.

Mr. BUSH—If it can be shown that forty dollars would pay for what now costs fourteen hundred, he should be in favor of it; but if the same amount, or near the same amount, was to be paid to clerks in another department to perform these duties, he was opposed to it. But he was not convinced that this sum could provide for a proper management of this interest of the State. It now required the attention of the Commissioner and two clerks, and he could not see how it would require less attention under the management of another department. The State Treasurer would be obliged to have so many more clerks. He was afraid that the experiment might prove too much like some other calculations of reform in this State. He had heard it trumpeted that our laws could be codified for five hundred dollars, and he had seen it roll up to ten thousand.

Our lands were too often considered as public plunder. The timber, or anything else that was found, which was valuable, was taken without hesitation, and with impunity. Was it not necessary to have some officer to see to this, who would feel a responsibility, whose scrutiny would be feared, and whose energy would prevent such depredations?

But it had been urged that the commissioner had little or nothing to do, and that he was away from his post of duty a considerable part of his time. Such had been the fact, to a greater or less extent with all the State officers. The Superintendent of Public Instruction, Auditor General, except the present incumbent, and all others, had been from their places at certain seasons of the year. The State Treasurer had been absent to New Jersey for a long time, and his duties had been performed by a deputy. It was sometimes necessary for the Auditor General and Treasurer both to be absent from their offices on business imposed upon them by law. So it was with the Commissioner of the Land Office. His duties called him to different parts of the State. It was true that at some portions of the year, the duties of this office were light—that they did not require as much attention as at other seasons. But that did not remove the necessity of providing that when those duties were demanded, a faithful and competent officer should be in readiness to do them.

Another point worthy of consideration in this recommendation of the committee, was the placing of the appointing power, which should more properly be in the hands of the people, in the hands of heads of departments. The direct responsibility to the people is therefore, in a great measure removed, and the evils resulting from this power, and of which so much complaint had justly been made, would be increased. An officer elected by the people, and responsible to the State, to have the direct charge of this important branch of our State government, was, as he thought, best calculated to promote the interest of the people and the faithful discharge of the trust.

Mr. REDFIELD said that the necessary clerk hire would be the same, whether the management of this matter was in the hands of a Commissioner or the Treasurer. But the attention of a Commissioner might be dispensed with entirely, without loss to the interest of this branch of our State affairs. In some branches connected with this office, as had been asserted, the business was increasing, but in others it was being closed. The 500,000 acres of internal improvement land had been nearly sold, and nearly closed up.

In regard to the late incumbent, he had understood that he was absent half of his time, and that for the last six months of his term he was not at his post at all.

Mr. CHURCH asked if the late incumbent did not urge upon the last Legislature the impropriety of abolishing that office?

Mr. REDFIELD said he believed he did not. The recommendation to restore the office was made by another officer.

Mr. ROBERTSON—How long was the office attached to the Auditor's office, by the act of the Legislature of 1849?

Mr. REDFIELD—Three months.

Mr. ROBERTSON said that the difference of expense under the two propositions could be but trifling. The salary of a chief clerk to oversee this department, were it placed under the Treasurer's charge, could not be less than eight hundred dollars; and the salary of a Commissioner elected by the people could not much exceed that amount. The salaries of clerks would be the same in either case.

During the three months the business

of this department was under the superintendence of the Auditor General, with the same number of clerks as before employed, the business had so fallen behind, that after the office of Commissioner was restored and the present incumbent entered upon his duties, extra clerks had to be employed, and had been employed up to the present time. This was no fault of the Auditor General, for the duties belonging legitimately to his office required all of his attention. But the business of the office would not have thus suffered if a head of this department had been directly responsible for the performance of this particular duty.

The most important duty of this department was undoubtedly the charge of the primary school fund. Connected with it were the dearest interests of the State—her educational prosperity, and the consequent development of those good qualities which make us worthy of being a great State in an empire of freemen. There was a large amount of land belonging to this fund yet unsold, and accounts therewith yet to be opened. It was never anticipated that the principal of this fund was to be used or diminished, or even suffered to stand still. It was expected to be kept at interest; and it would keep increasing with new sales, till it would become of such importance as to make the Commissioner the most important office of the government. Twenty years would not elapse before this would be the case. And if this was to be the result, it was of importance that this interest should be guarded by men more responsible than mere clerks in a department. There could not exist the proper relation between any department and this fund, to secure to it that attention which its importance demands. It would be of secondary consideration to any department to which it might be attached. No one could dispute its consequence—no one could gainsay its claims to the closest attention. Why, then, impose this duty upon an officer elected for the purpose of discharging the functions of another branch of the government?

Another important consideration that urged upon his mind the importance of providing for an officer for this department of our State affairs, was the fact that there was a large quantity of land yet unsold,

A proper and safe disposal of these lands would require a man of much experience, and who would feel the responsibility of the duty. Much of these lands were valuable mainly for their timber; and the proper guards to prevent the State from being swindled should be provided for in their sale. The officer holding them for sale should know their value, and should be a man of sufficient judgment to look well to the interests of the State. The State Treasurer, to be sure, might possess these qualifications, but his main duties would be those connected with the Treasury, and he would be elected with reference to his qualifications for that position, and not for his supposed knowledge of our landed interests, or his qualifications to properly conduct its affairs. It seemed to him, therefore, that with these considerations before the committee, they would see the importance to the best interests of the State, that the office of Commissioner of the Land Office should be placed in the constitution. The accounts that must be opened—the consequent increase of the business—

Mr. REDFIELD—The gentleman must recollect that a large number of accounts are being closed, and a consequent diminution of business must follow.

Mr. ROBERTSON would venture to predict that if it required at this time two active men to perform the duties of this office, in ten years it would require four. This increase of business, and the necessity of a strict oversight of this interest, and a responsibility felt to the people, would justify and demand a distinct department for this branch of our State affairs.

Mr. N. PIERCE was very anxious to protect the school fund. The great burden of our school system rested upon it; and he desired to see it increased as far as possible. But which system proposed would be the best, he might not clearly see. He had felt a disposition when he came here to reduce as far as possible the number of the public officers, and more particularly since he had found the Convention sometimes inclined to go with him. He felt it an object, so far as it could be done safely, to impose all the duties upon a public officer that he could perform. But if this school fund could not be properly cared for under the arrangement proposed by the committee, then some other mode could be

devised, and the Convention in its wisdom would do as it pleased. But if this Commissioner was but a mere cypher, and that when he stood alone he meant nothing, and only added to the expense as he stood in relation to others—drawing a thousand dollars salary, and returning no service, he was in favor of cutting off his head. He had thought the State could do without several of its present officers. The Lieutenant Governor, as well as others, he thought might just as well be dispensed with as not. He was in favor of making every officer do some duty. The State had no business to employ men to do nothing. But he was satisfied that this Commissioner had not heretofore done much business.

Mr. CHAPEL—How did the gentleman obtain his information?

Mr. N. PIERCE had not traveled out of his way to get any information, but from the general impression—from conversation with those who ought to know, and from his own observation, he was satisfied the Commissioner himself had done but very little business. He had usually been absent traveling for his own pleasure. If this was the custom of that officer, the Convention could just as well as not relieve him of those duties. He had supposed that any officer would protect this fund who should be entrusted with it; that is, if clerks always did the business, one officer could do it as well as another. The State Treasurer could say go and do it, as well as to retain another officer to say the same thing. He never hired men to tell others what to do; neither ought the State to do so.

If the Legislature had not provided too much business for the Treasury department, and he thought they had not,—and certainly the duties could not be very burdensome under the constitution we were preparing,—and if the fund would not suffer under such management, and the one thousand dollars salary could be thus saved to be added yearly to the amount of the fund, it would seem best to him to do away with that office. But it was said other States had a Commissioner. Very true. Connecticut had one. But his duty was to travel to see to the interests of his department. Through his own State, and New York and Ohio, he was called to attend to the lands and securities belong-

ing to his department. He was not at the capitol at his ease, nor away at his pleasure. His duties were active ones, and as such were of value to his department and to the State. How our business had been transacted he was not fully aware; neither should he urge his curiosity beyond a proper course to find out. Let that be as it would, he believed the Convention felt disposed to do right in this matter, and after a full canvass of the whole subject, fix it about as it should be.

Mr. KINGSLEY said that he was in favor of abolishing one or the other of these offices. The argument of the gentleman from Ingham, [Mr. BUSH,] that he wished an officer directly responsible to the people, to have charge of this interest of the State, seemed of little or no force. The Treasurer was to be elected by the people; and would they be less likely to get a responsible man to fill that position if the further duties of commissioner were imposed upon him? And would he not be as directly responsible to the people for the faithful discharge of the Commissioner's duties as if he had been elected for those particular duties alone?

The assertion that the Commissioner had a great deal of business to do could not be sustained; and certainly, for the future, his duties could not be increased. The assertion that the Commissioner had the charge of the lands before they were sold would be found not to be so. The prosecuting attorneys of the respective counties were required to exercise this charge. At least, this duty was imposed upon them, and no other officer has ever assumed such duties. If a person wished a lot of the school land, he made his application therefor; and after the land was sold and the twenty-five per cent. paid, that was about the extent of the Commissioner's duties.

Mr. CRARY—Bonds are frequently taken in cases where the twenty-five per cent. is not sufficient to protect the interest of the fund.

Mr. KINGSLEY—That is not a very tedious duty. The interest on the remainder had to be paid annually, and the money passed into the Treasurer's hand. There could be no necessity for an intermediate officer. The committee had undoubtedly investigated all the facts which

might have a bearing upon this question, and had made their report; and he felt disposed to rely upon their judgment, and to sustain their conclusions.

The office was unnecessary—the officer was absent from his post a large share of his time—the duties were done by clerks. What reason then for his retention? The Legislature would never dispense with this office; and this was the place, and now was the time, to reform these abuses which had grown on our State government.

Mr. CRARY said that he did not feel disposed to continue this debate, but he had a word to say of what had passed under his personal observation. He had known something of the workings of this department of State government, and had taken something of interest in its affairs. He had known the Commissioner of the Land Office, and the Superintendent of Public Instruction, and had had an opportunity to judge of the extent of their duties. During the time the office was located at Marshall, a period of four years, he had occasion very frequently to observe the transactions in the office—of the amount of business which was done, the number employed, and the time devoted to their duties during that period, he had had some opportunities of judging. Three persons' whole attention was usually necessary to perform the duties of the office; and he had not unfrequently seen them engaged in their business at unreasonable hours, after the ordinary business of the day had been closed.

Our educational interest was one of the most important branches of the government. The interests in the charge of the Commissioner, or whoever discharges his duties, and in the charge of the Superintendent of Public Instruction, were of the greatest moment to the whole people; and whatever means could be devised to guard these interests, it behooves this Convention to provide.

That the duties that followed a proper charge of our State lands were sufficient to warrant a distinct department of the State government, he could not doubt. The accounts were not only increasing with every new sale, but a per cent. was being paid on the principal remaining due at the time of the sale. People were paying for these lands; and, for the future, those who

have purchased school lands would be paying more rapidly than heretofore. It followed as a natural consequence of persons getting their lands cleared off, and their farms improved and productive, that they wished to get out of debt. What was to be done with this principal of the school fund? It was not to be used up—that was settled. It should not remain idle, as in that condition it would be useless. Were we disposed to let the State run in debt to this fund? It was a bad policy. Connecticut had set us an example which it might be wise to follow. She had loaned out her fund on bond and mortgage, and kept doing so as fast as it accumulated, through the hands of an efficient commissioner. We should have to do the same, unless the State was to have the use and control of this fund. Between the landed security of the people of the State and the obligations of the government, there would be no reason for choice. The State was subject to the thousand commotions that effect her credit, to convulsions that might exhaust her resources; and, in case of a revolution, not a dollar of the fund would ever be saved. As a mere question of policy, this State should not have the use of this fund—to become in debt as a State to this fund. It was wrong, and should not be entertained for a moment.

It had been said here that the Commissioner had paid very little personal attention to the duties of his office. But he had supposed that it came from those who were not fully acquainted with this office. At least he [Mr. C.] did not believe this to be the case. There might be seasons of the year when the business of the office was not as great as others, and the officer could be away. This was the case with all offices, and no more with this office than any other. It was a question of some importance for this Convention to decide, whether this department shall be administered as secondary to another, or whether we should provide for an officer for the special purpose of superintending its duties, and to be directly responsible for those duties, and for no other. For him, he should vote for the amendment proposed by the gentleman from Macomb, [Mr. ROBERTSON.]

Mr. BACKUS said that when this subject first attracted his attention, he was in

favor of combining the two offices. He had been disposed, so far as they could with safety, to diminish the number of the public officers; and with this view he had entertained the opinion that the office of Commissioner could be dispensed with. His first impressions, however, had given away, and he should be opposed to the removal of that officer.

The abolition of this office would produce a change in our State policy—the policy of our legislation in reference to our State lands; and every change must be disastrous to the public interests in that department. Such is the inevitable result of a change, and its effects were worthy of consideration in the settlement of this question.

If the necessities of the government did not require the abolition of this office, and the best interest of the school fund required such an officer, it was best to make the State land interest a separate department of the government. The teachings of the past and the prospects for the future, seemed clearly to indicate that this was to be far the more important of the two offices proposed to be combined, if not the most important of any of the departments of the State. The office, he judged, had heretofore been badly managed; more, perhaps, from the inefficient laws under which he acted, than any negligence of the officer; but the duties legitimately belonging to this department, and properly placed to the duty of an officer, were of sufficient magnitude to be confined to the responsibility of a distinct officer.

Mr. CHURCH said that reference had been made to information derived from officers of State. How was this information obtained? The Convention certainly had not made any requests for such information as had been alluded to. Individual members then had called upon the officers; but was that the proper mode? It seemed to him to be compromising the dignity of the members to obtain their information in that manner. And if any officer chose to pour into the ears of members their complaints or wishes, it might be well to know it.

Mr. N. PIERCE—State officers have not poured into my ears their complaints or wishes, sir; neither have they acted beyond their proper sphere; neither do I be-

lieve members have compromised their dignity by improperly seeking for information.

Mr. CHAPEL said he found fault with the arrangement of this report. He wished to see a consistency between the classification of the duties of an office and the officer. If the idea of saving expense to the State called for the combination of the offices of Treasurer and Commissioner, the same reasoning would call for the combination of the offices of Secretary of State and Superintendent of Public Instruction. We had resolved upon biennial sessions of the legislature, and the Secretary of State's duties would thus be diminished one-half, and that of the Treasurer to a very considerable degree. Now, if these combinations were to take place, he wanted to see the most important branch in the department placed first in the combination. He wished to retain the principal officer, and make him *ex-officio* of the other. This was the reason he had offered his amendment.

Under this constitution the duties of the Treasurer would be very light; any one, even a boy, could attend to them. The Commissioner's duties were not to be affected by the reforms of this Convention, but from necessity were greatly to augment. He did not think it very proper to provide a clerk for the most important duties, and leave the minor ones to the charge of the responsible officer. If it was necessary to bring either head to the block, take the one of the least consequence.

As to the wholesale shots that had been made at the duties of the land office, he presumed they had been made without a proper knowledge or comprehension of their extent. If they had not been performed by the principal, they had been done by competent deputies. After the office had been once abolished, the Legislature last winter thought best to restore it. Its duties had fallen behind, and the Legislature saw the necessity of restoring the office. Of the particular manner in which the late incumbent performed his duties, he was not aware; nor was it to any purpose in this discussion. The proper corrective to negligence in office was to be applied—for they were all to receive their places directly from the people, and therefore would feel their responsibility.

Mr. BUSH said that many remarks had

been made, and much fault found with the *late* Commissioner of the Land Office. He wished to say a word to correct any erroneous impression that may have been entertained of that officer. He was a man above reproach. If there was a man in the State government who had discharged his duties faithfully, either to the spirit or the letter of the law, it was that man. That there were times when there was little business in the department, was true; and that this officer may have been absent during those periods. But he had never, he (Mr. B.) would venture to say, been absent when his duties demanded his attention.

Mr. ORR said that he was a member of the committee who had reported this article. While the committee was acting on this section, he was not satisfied that the provision reported was the best; yet he had yielded to the superior knowledge of the chairman. He was almost entirely unadvised as to the duties of this department, and therefore had relied upon the judgment of those whose positions heretofore had given them a better opportunity of knowing. Yet, from the information communicated from the department, and from the bearings of this discussion, he was satisfied that the department of the land office should be retained as a separate office of the State, and that the officer should be elected by the people.

He could not agree with the proposition of the gentleman from Macomb, [Mr. CHAPEL.] The Superintendent of Public Instruction should also be a separate officer, and he should receive a salary sufficient to secure the best talent in the State.

On motion of Mr. HATHAWAY, the committee rose and obtained leave to sit again.

The Convention then adjourned.

Afternoon Session.

After laying on the table a motion granting leave of absence to Mr. CONNER for an indefinite period, and pending the question to lay on the table a similar motion granting leave of absence to Mr. HASCALL,

On motion of Mr. CRARY, the Convention resolved itself into committee of the whole on the general order, Mr. MORRISON in the chair.

Article —, "State Officers," being under consideration, and the question being on the motion of Mr. ROBERTSON to strike out "who shall be ex-officio," and insert "a,"

Mr. S. CLARK said he had listened to the discussion drawn out by this motion with very much interest. He hoped the motion would not prevail. If he was to judge from the remarks which had been made, and from the communication from the present Commissioner, he should think the office could be very well abolished. It would seem from the communication of the Commissioner, that there had been less than five thousand sales since this department had been established. From 1836 up to this time, all the sales of the lands belonging to the several funds amounted to just four thousand one hundred and fifty-nine. There follows, then, that the same number of accounts only have been opened. Deducting the number which may have been closed, and you will have the amount of the actual duties of the office. Add to this the correspondence incident to these accounts, and you have the total business of the department. Count them all, and they are no more than the fair labor of a single officer; and the duties are of such a character that they would be as well performed by a clerk as by a head of a separate department. The salary of that officer is thus virtually given away. What shall we do? Shall we not save that amount? It would be so much saved yearly to the State.

The argument that it was an important office was one that could be used on all occasions and in relation to every office. That the duties were important, was not a sufficient argument to retain a separate officer to perform them; and unless there was a necessity shown—the fact that the duties of the station were sufficient to be placed to the responsibilities of one man, and that the other officers were entrusted with all that should be placed to their responsibility—unless such a necessity was shown, he could see no reason for the proposed retention of the Commissioner.

Some members had suggested the abolition of some of the other offices. They too were all important. They were the usual machinery of all States, and therefore classified to suit our ideas of a gov-

ernment. The committee had had all these questions under consideration, and had recommended the abolition of this office. He felt disposed to stand by the report of the committee. The experience of the chairman of that committee, in our own affairs, made him qualified to judge what offices were necessary, and on the fullest conviction that this office might be dispensed with, the report was made. A thousand dollars saved yearly to our school fund was a great consideration; particularly when the disposition of it, as now proposed, would return no equivalent to the State. It seemed to him that one efficient clerk, under the superintendence of the Treasurer, was all that should be, or would be required for the proper and faithful administration of our State land interest.

Mr. HANSCOM was willing to give great weight to the report of a committee, in all cases; but when a report was made by any one, of however much experience, while others could judge, he felt bound to follow his own convictions against that report. He had been convinced that the duties legitimately belonging to this department, were sufficient to warrant the retention of the Commissioner, and he should therefore vote for the amendment.

The duties, it was admitted on all hands, would require clerical attention. The difference between the salary of a responsible officer and an irresponsible clerk was of too small account to weigh against the consideration of a better management of its affairs. The affairs of this department were to affect us through all coming time; and the extra per annum allowance could not be better appropriated than in thus providing for the best administration of this office, even if that extra allowance should reach one thousand dollars. The amount could not be better spent. The intelligence of the people rested on their education; and their education in a great degree rested upon the school fund. The education of every man, woman and child, was one of the great objects of the State—one of the greatest purposes of our government. If we wish to subserve that cause, every effort to give it consideration and prominence in the minds of the people and the affairs of the State—to secure its best and most efficient management—should be resorted to. That this great

cause of education would be furthered by placing the State lands in charge of a distinct department, there could be no doubt. The experience of other States had demonstrated that fact.

There was another objection to this attaching the duties of the Land Commissioner to the State Treasurer's office. It was a virtual extension of the appointing power. The person to be entrusted with the management of this important department was to receive his commission from the head of another department. If the argument was good against the appointing power in any case, it most certainly held good in this. It had become the settled policy of the people to elect their own officers to all responsible trusts, and there was no occasion for making an exception in this case.

The motion of Mr. ROBERTSON then prevailed.

Mr. CROUSE moved to strike out "Superintendent of Public Instruction," in 1st line, and insert after "years," in 4th line, "and a Superintendent of Public Instruction, who shall hold his office for four years."

Mr. C. said he thought the propriety of the amendment would strike the good sense of the committee at once. It was one of the most important offices of the State. Under his superintendence all the affairs of our educational interests were placed; and the too frequent change of this office had brought with it many evils. A different policy was introduced by each new Superintendent—an entire change of books usually recommended; and thus the permanency and stability of the system was destroyed, and its benefits correspondingly affected.

The question was taken on striking out, and lost.

Mr. SULLIVAN moved to strike out "Auditor General."

The CHAIR said that the question had been once taken and lost, and therefore the motion was not in order.

Mr. FRALICK offered the following as a substitute for the section:

"There shall be a Secretary of State, who shall be ex officio Superintendent of public Instruction, a State Treasurer, who shall be ex officio Commissioner of the Land Office, and an Auditor General, elect-

ed at each biennial general election, who shall hold their respective offices for the term of two years, and shall perform such duties as may be prescribed by law."

Which was rejected.

Mr. CHAPEL then offered his substitute, as follows:

"There shall be a Secretary of State, who shall be ex officio Superintendent of Public Instruction, a Commissioner of the Land Office, who shall be ex officio State Treasurer, an Auditor General and an Attorney General, elected at each biennial general election, who shall hold their respective offices for the term of two years, and shall perform such duties as may be prescribed by law."

Which was lost.

On motion of Mr. BRITAIN, section 1 was amended by inserting after "years," "each of whom shall keep an office at the seat of government."

Mr. GALE moved to insert "Doctor General" after "Auditor General."

Mr. HANSCOM asked if it was proposed that he, too, should reside at the seat of government?

The motion was not sustained.

Mr. McLEOD move to strike out section 2.

But the committee refused to strike out.

On motion of Mr. HANSCOM, the words "a temporary," in section 3, were stricken out, and "an" inserted.

Sec. 4. The Secretary of State, State Treasurer and Auditor General shall keep their offices at the seat of government, and shall constitute a Board of State Auditors, for the examination and adjustment of all claims against the State, not otherwise provided for by law, or specially referred by the Legislature to some other tribunal. And shall also constitute a Board of State Canvassers, for determining the result of all elections for Governor, Lieutenant Governor, Judges and State officers, and of such other elections as shall by law be referred to said board.

Mr. BUSH moved to strike out "shall keep their offices at the seat of government, and;" which motion prevailed.

Mr. BACKUS moved to strike out "shall constitute a board of State Auditors for the examination and adjustment of all claims against the State, not otherwise provided

for by law, or referred by the Legislature to some other tribunal."

Mr. B. said that the object of the amendment was to place the State in the same position as individuals, in reference to their remedies. He wished to have the rights of the State tried where the citizens' rights are tried. That all matters not coming strictly within the purview of the Auditor General should be referred to some proper judicial tribunal. If this amendment should be adopted, it would prevent the creation of extra and unusual tribunals for the settlement of demands for and against the State. The same measure of justice should be dealt out from the State to the individual as is required between individuals; and therefore the same tribunal should be the common umpire.

Mr. HANSCOM said the adoption of the proposition of the gentleman would carry with it a great deal of difficulty. States had adopted a different rule in reference to claims than what they required of the citizens; and for very obvious reasons. The State would otherwise be dragged into a lawsuit by every petty claim, if the claimant thought he could obtain something more by that process. The State had tried the experiment once; and had not the law been repealed, we should have been in a far worse condition as a State than we are now.

The greatest fault that could be found with the proposition for a board of auditors was the fact that they generally pay too much, or rather pay claims which ought not to be allowed. They are too apt to grant too much. In this day of resuscitating old claims, it was best to be guarded as far as possible against being devoured. Among the numerous Galphin claims of the day, he had seen an account of one presented for furnishing materials for building Noah's Ark; and if Secretary Crawford could be retained as the agent, while Mr. Meredith should be the accounting officer, there might be danger of our being compelled to pay it. At any rate, the history of these times, in matters of claims, warned us to provide for the safest and best method of settling these matters.

Mr. BACKUS said he most certainly hoped never to see such a claim as that last alluded to, receive attention, and presumed he should not. But to one admis-

sion of the gentleman he wished to allude. The fact that a board of auditors were too liberal, as a general thing, with claimants, was the greatest of all reasons why such a board should not be allowed to sit as the judges in such matters. They had but one side of the story, and it was not brought before them in a proper way for them to make a proper judgment. And why take your Auditor General, Treasurer and Secretary of State to compose this board? They are not properly constituted to determine what claims are legally entitled to payment. Why not more properly make your judiciary constitute this board? They would bring their legal and equitable rules to bear upon the cases, and sift them with a thorough investigation. Justice to all parties, in such cases, would be more certain and more satisfactory; for the matter would be settled upon legal principles. If this board of auditors is applicable to the affairs of the State, why not apply it to all organizations under the government. Apply it to your counties, to your towns and school districts. The same principle applies; and if it is just and right in the one case it would be in the other.

The gentleman has alluded to the experience of the State in the settlement of its claims. The claim growing out of the State prison had been a fruitful theme of discussion. But had this claim been originally referred to the judiciary—placed before them for their decision—it would have been settled long ago, and much better to the satisfaction of all concerned. The judiciary was the best umpire for such cases, because it could bring every thing to the test of legal principles; it was the most just, because the most important; the most satisfactory, because the most thorough in its investigations; the cheapest, because its machinery was created for these very purposes; the most consistent with our institutions, because it provided the same tribunal for State and citizen. Other States had tried it, and its workings had proved satisfactory.

Mr. BUSH said that the argument of the gentleman who last occupied the floor, was a very plausible one; but the history of the United States and of this State might be very profitably examined. The people of this State had suffered immeasurably from the system proposed by the

gentleman from Wayne, [Mr. BACKUS.] The claims growing out of the stopping of our internal improvements, very many of them, were settled in this way. And every one is well aware of the complaints growing out of the settlement of those claims. The most exorbitant demands were made for damages, and allowed. The manner proposed by the committee, of leaving all claims to be settled by the Board of Auditors, was decidedly preferable. All matters were first presented to the Auditor General, and if they did not come within his sphere; or if he rejected them, he formed part of the tribunal who were to pass a final judgment in the case. Such cases as he was required to allow, he would do so; but others went to this final umpire.

Mr. WHIPPLE—The question under discussion seems to involve the point whether matters of claims against the State shall be referred to a board of State Auditors, or to a judicial tribunal for settlement. Reference has been had to the history of our internal improvements and the difficulties growing out of them. They had, it was true, involved the State in a large amount of litigation; they had been the cause of a great deal of trouble; but his own experience had proved to him that had the State referred these claims in the first place to the judiciary, giving them the original jurisdiction, it would have been far better for the State. But the facts were that a board of public officers were first made to pass upon these claims, and then appeals were allowed from this board. The most enormous allowances were made; and whenever an appeal was taken, they were always reduced very much. He had known claims on which large allowances were made by the board, that, on a thorough examination, it was found the State did not owe a dollar.

Mr. W. was not prepared to go so far as the gentleman from Wayne, [Mr. BACKUS.] He was willing that claims should first be presented to this board, but did not wish their judgment to be conclusive on the State or the individual. An appeal should be allowed whenever the amount in controversy was very considerable. Heretofore, in cases of appeal, the amount was always greatly reduced. The case of Chapel, with which all were familiar, was reduced some eight hundred

dollars; and numerous others, when tried on their merits, were found to have no better foundation. This section should be so fixed that if the board be retained, their decisions could not be final or conclusive, but that the State or the individual might seek his rights before the highest tribunal of the State. In matters where the amount was small, it might be injudicious to allow an appeal.

He had never known injustice done to the State or to the individual by this reference to the judiciary. His own experience was, that when the matter in controversy was submitted to a jury, the rights of the individual were guarded, and the interests of the State not neglected; so that justice was dealt out to all. So far as the justness of their decisions was concerned, he felt no hesitation in providing for the allowing of such appeals.

The workings of the whole matter in this State had been something like this. The State had broken its engagements. As a matter of course, men who had entered into contracts, applied to the State for damages. Every collateral or conceivable damage was brought into the account. One man had lost a horse, another had had a plow stolen, or he had accumulated useless property, &c., &c.; all these remote damages were brought into the account. But when the matters were sifted, and the actual and direct damage sustained arrived at, the claim dwindled down amazingly. The State prison claim, which had been alluded to, was another illustration of the working of this system. The claim was allowed by the present board, but was rejected when investigated by the scrutiny of legal proceedings.

It was far more important to the State than to the individual that this appeal should be provided for. Such the history of our own State would prove. These boards too frequently allowed items in the account which could not be claimed on any legal principle.

Mr. KINGSLY said he thought the article suited the views of both gentlemen. The decision of the board, as the article now stood, was not binding and conclusive.

Mr. ROBERTSON moved to insert "from whose decision there shall be an appeal to the Supreme Court."

Mr. BACKUS—What would be the effect of this amendment? A man presents a claim to the Board of Auditors, and he is dissatisfied with their decision. What is the party's remedy? He must bring a writ of *mandamus* on this board of officers, and thus bring it before the court. Why compel him to resort to this? Why not refer the matter directly to that tribunal, without all this machinery?

The question was taken on Mr. BACKUS' motion, and lost.

Mr. ROBERTSON withdrew his amendment.

Mr. HANSCOM moved that the committee rise, report progress, and ask leave to sit again. Lost.

Mr. CHAPEL moved to strike out "Auditor General," and insert "Commissioner of the Land Office," in the clause providing for a board of auditors.

Mr. C. said that a board of auditors in this State were compelled to go to various parts of the State to settle claims. The absence of some of the officers had been a cause of complaint; at least the Auditor General had complained. The inconsistency, too, of presenting claims to the Auditor General, and then an appeal to a board of auditors of which he should be one, would strike any one at a glance.

The motion prevailed.

Mr. CRARY moved to add the following to the end of section six; which was adopted: "The inspectors shall have the charge and superintendence of the State Prison, and shall appoint all the officers therein. All vacancies in the office of inspector shall be filled by the Governor till the next election."

On motion of Mr. RAYNALE, the word "two" was stricken out of last line of section six, and "six" inserted.

The committee then rose, and through their chairman reported "Article —, State Officers," with certain amendments, in which the concurrence of the Convention was asked.

Mr. McLEOD moved a call of the Convention, which was demanded; and there being a quorum in attendance,

On motion of Mr. BRITAIN, all further proceedings under the call were dispensed with.

The Article entitled "State Officers" being under consideration,

Mr. BACKUS moved that the same be laid upon the table and ordered printed.

A division of the question being had, the article was laid upon the table, but the Convention refused to print.

Mr. HANSCOM moved the Convention adjourn; which was lost.

The question now recurring on the motion to lay upon the table the application for leave of absence for Mr. HASCALL, made prior to going into committee of the whole, the motion to lay upon the table was lost by yeas 9—nays 44.

Upon the question of granting leave, the yeas and nays having been ordered, the result was yeas 45—nays 7.

So leave was granted Mr. HASCALL for an indefinite period.

On motion of Mr. BRITAIN,

Resolved, That article —, entitled "Executive Department," be recommitted to the committee on executive department, with instructions to inquire into the expediency of so amending said article as to provide for the election of Speaker of the House of Representatives by the people.

Mr. GALE asked and obtained leave of absence for Mr. LEACH for an indefinite period.

Mr. HANSCOM moved that the Convention adjourn; but the Convention refused to adjourn.

Mr. HANSCOM moved that the Convention resolve itself into committee of the whole on the general order.

Upon which the yeas and nays were demanded; when, upon calling the roll, a quorum of members not being in attendance,

On motion of Mr. STORY, a call of the House was ordered.

The roll being called, and a quorum of members answering to their names,

On motion of Mr. STOREY, all further proceedings under the call were dispensed with.

On motion of Mr. DANFORTH, the Convention adjourned.

—
SATURDAY, (24th day,) June 29.

The Convention met pursuant to adjournment, and was called to order by the PRESIDENT.

Prayer by the Rev. Mr. TOOKER.

The PRESIDENT called Mr. ROBERTS to the chair.

RESOLUTIONS.

Mr. HANSCOM offered the following, which were adopted:

Resolved, That the President of this Convention be paid the same amount of mileage allowed to other members, and that he receive six dollars for his per diem; and that the same shall be paid upon the certificate of one of the Secretaries of the Convention.

Resolved, That the same per diem and mileage allowed to the present officers of the Convention be paid to the Secretary and Sergeant-at-arms *pro tem.*, and that the usual certificate be drawn therefor.

Mr. S. CLARK moved a reconsideration of the vote by which the above resolutions were adopted.

Mr. BUTTERFIELD would call attention to the phraseology used in the last resolution in relation to mileage to be allowed to officers of the Convention. It does not provide for payment of mileage, but assumes it. It creates an interest in favor of such payment, which should not be countenanced, unless it was the intention to carry it out by appropriation. It may be called an entering wedge. He [Mr. B.] was opposed to such legislation in all cases. If there was no intention to provide for mileage, why put it in the resolution?

Mr. DANFORTH hoped the vote would be reconsidered. The law provides that the President shall receive the same compensation as Speaker of the House of Representatives. He would be entitled to six dollars a day and mileage by law. There was no necessity for the passage of the resolution.

The motion to reconsider prevailed.

The question was stated to be on the adoption of the first resolution.

Mr. HANSCOM had offered the resolution at the suggestion of the treasurer, who had doubts as to the mode of certifying.

Mr. WALKER—It only relates to the mode of certifying. The President cannot certify in his own favor.

The first resolution was adopted.

The second resolution was read.

Mr. FRALICK moved to strike out that part relating to mileage.

Mr. RAYNALE had understood that it had been the custom to pay mileage one way to the Secretary and Sergeant-at-arms. He thought mileage one way should be allowed; if no inducements were held out, it might be difficult to obtain officers at the commencement of a session.

Mr. BUTTERFIELD thought it altogether wrong. It gives decided advantage to one man coming here over others. He comes here as a candidate for this office with others, and though through the intervention of a friend he may get the temporary appointment for which he will receive his per diem, he ought not to be paid mileage.

Mr. HANSCOM said the proceedings of the Convention had no doubt been expedited by the former Clerk of the House making arrangements and preparing lists for the Convention. The trifle of mileage he thought ought to be allowed. The Secretary *pro tem.* had probably saved the State \$500 by making arrangements previous to the meeting of the Convention, and by having the lists prepared.

Mr. BRITAIN said the clerk of the House had received two hundred and fifty dollars between the adjournment of the Legislature and the meeting of the Convention.

Mr. FRALICK'S amendment was concurred in, and the resolution as amended adopted.

Mr. STOREY moved that the Convention resolve itself into committee of the whole on the general order; but the motion did not prevail.

On motion of Mr. WITHERELL, a call of the House was had, and a quorum being found present, all further proceedings under the call were dispensed with.

Mr. STOREY renewed his motion to go into committee of the whole, and the same was again lost.

The PRESIDENT took the chair.

Mr. ROBERTS moved to adjourn till Monday the 8th of July next.

Mr. VAN VALKENBURGH moved to amend by striking out "Monday, the 8th," and inserting "Wednesday, the 10th."

Mr. HANSCOM thought the propriety of adjourning was a matter of grave consideration. The time proposed for the adjournment was too long. In fact, he was opposed to adjourning. A great deal of

business might be got through with in the course of the day; though he thought a call of the Convention should again be had.

Mr. VAN VALKENBURGH was of opinion that if the Convention adjourned, it ought to adjourn to the 10th of July. He thought it improper that gentlemen sent here by the people should slip off and leave the Convention without a quorum. As it would be impossible to do business, he thought it best to adjourn.

Mr. CHAPEL offered the following as a substitute:

Resolved, That this Convention adjourn till Monday, July 8th, next, and that during the period of adjournment no member or officer shall be entitled to his per diem.

Mr. EATON moved to insert in lieu of "July 8th," "September 1."

A call of the Convention being had, and a quorum of members not being in attendance, all further proceedings under the call were dispensed with.

Mr. STOREY offered the following:

Whereas, A majority of the members of this Convention, by obtaining leave of absence or otherwise, have absented themselves, and the number present is now reduced to less than a quorum, and the only power left those in attendance is to adjourn or send the sergeant-at-arms after the absentees;

And whereas, There is no reasonable prospect of obtaining the attendance of a quorum at an earlier day than Tuesday, July 9th; therefore,

Resolved, That this Convention stand adjourned until the 9th day of July, at half-past 8 o'clock A. M.

Mr. WALKER hoped his colleague would withdraw his amendment. Nothing could be acted upon except a motion to adjourn.

Mr. CHAPEL withdrew his substitute.

The substitute offered by Mr. STOREY being read, and the question being on its adoption,

Mr. GALE inquired if it was in order?

The CHAIR stated that, under the rule, a majority of the members elect shall be a quorum to do business, but a less number may adjourn; it does not specify whether for a given time, or a time previously prescribed by the Convention.

Mr. CORNELL understood that, under the rule, a minority might adjourn; but he

did not know whether *sine die* or to a particular day, or only to the time prescribed by the Convention. He wished some gentleman to explain. It appeared to him that they had no authority to move the previous question or any other, except to adjourn. They had no power to do any thing except what the majority had given them. The body [said Mr. C.] is not here, nor the soul either.

The CHAIR said a question might arise as to the power to call the previous question. He was of opinion that the question of adjournment could be taken, and none other.

The PRESIDENT put the question on the last resolution—that this Convention stand adjourned until the 9th day of July, at half-past 8 o'clock A. M.

Mr. CLARK called for the ayes and noes.

The President was of opinion that the ayes and noes might be ordered, so long as there were ten members, on a motion to adjourn.

Mr. MASON appealed from the decision of the chair.

Mr. BUSH stated his opinion to be, that as a quorum was not present they could make no rule, but must abide by the rules adopted by the Convention; the rule gave them power only to adjourn. The Convention had prescribed that the adjournment should be to meet at two o'clock in the afternoon, and at eight in the morning. At those times the roll must be called, and if a quorum is not present they may again adjourn.

The decision of the chair was sustained, and the question being taken on the resolution to adjourn, it was carried, as follows:

YEAS—Messrs. Arzeno, Axford, J. Bartow, Beardsley, Burns, Butterfield, Carr, Church, Crary, Eastman, Gardiner, Hanscom, Hathaway, Kingsley, Mason, Mosher, Newberry, Prevost, Raynale, Roberts, Robertson, E. S. Robinson, Skinner, Soule, Storey, Sutherland, Tiffany, Van Valkenburgh, Walker, Whipple, Witherell, Woodman—32.

NAYS—Messrs. W. Adams, Anderson, Backus, Britain, Asahel Brown, Bush, Chapel, S. Clark, Cornell, Crouse, Danforth, Daniels, Eaton, Fralick, Gale, Orr, N. Pierce, Rix Robinson, Sturgis, President—20.

The President declared the Convention adjourned until Tuesday, the 9th day of July next, at half-past 8 o'clock, A. M.

TUESDAY, (25th day,) July 9.

The Convention met pursuant to adjournment and was called to order by the PRESIDENT.

Prayer by the Rev. Mr. SANFORD.

The roll being called, a quorum of members was in attendance.

The journal of the last day's proceedings was approved.

On motion of Mr. ROBERTS, the Convention resolved itself into committee of the whole on the general order, Mr. EATON in the chair.

Mr. CRARY moved to take up for consideration the article on Corporations.

Mr. COOK said the gentleman composing the minority of the committee, who had made a report accompanied by an article, were not yet in attendance, and he thought the article should not be taken up. They would probably be in their seats tomorrow.

Mr. CRARY—I cannot help that; they should be here.

The motion was lost.

The article "Education" being the first on the general order for consideration,

Mr. WALKER moved to pass it over, as the member who was chairman in committee of the whole when the article was last under consideration was not in his seat.

The motion was carried.

Article —, "Exemptions and the Rights of Married Woman" was passed over, on motion of Mr. J. D. PIERCE, who remarked that another article would be reported by a portion of the committee.

The committee then proceeded to the consideration of "Article —, County Officers and County Government."

Section 1 was read, and passed without amendment.

Sec. 2. No county now organized by law shall ever be reduced by the organization of new counties to less than six hundred square miles.

Mr. FRALICK moved to strike out of section two the word "six," and insert "four."

Mr. BUSH hoped the amendment would prevail. No great injury could ensue from it. The Legislature always handled these matters with great care, and great inconveniences might hereafter result if, by the Constitution, they were prohibited from acting in cases where the public welfare required that a county should be reduced to less than six hundred square miles.

Mr. COOK said that sixteen townships contained 576 square miles, and the committee therefore agreed on six hundred. They thought that sixteen towns was as small a number as any county should contain. If the amendment was adopted, the Legislature would be flooded with petitions for the division of counties, and much trouble would ensue. He was in favor of the section as it stood.

Mr. BRITAIN, for the very reasons given by the gentleman, [Mr. Cook,] was in favor of a change. Sixteen townships contained 576 square miles, and that was large enough for one county.

A division of the question being had, the committee refused to strike out.

Mr. FRALICK moved to add at the end of section 2, "except the county of Wayne;" which was not agreed to.

Mr. HANSCOM moved to strike out section 2; but the committee refused to strike out.

Sec. 3. In each organized county there shall be one sheriff, a county clerk, who shall be the clerk of all the courts of record to be held in the county, a county treasurer, who shall be ex officio register of deeds, one county surveyor, a prosecuting attorney and one or more coroners, chosen by the qualified electors thereof, once in two years, and as often as vacancies shall happen, and whose duties and powers shall be prescribed by law.

Mr. CRARY moved to strike out of section 3, "and one or more coroners."

Mr. C. said his reason for making the motion was that he considered the office of coroner useless, as there were no duties to be performed by that officer unless the sheriff was sued, or in case of his death. By statute, the ordinary duties of coroners have been devolved on justices of the peace.

The motion prevailed.

Mr. KINGSLEY moved to strike out the words "who shall be ex-officio," and insert "a."

Mr. K. said the offices of treasurer and register of deeds in large counties were both desirable, and he could see no good reason for uniting them. In his county, the office was worth one thousand dollars.

Mr. GOODWIN thought the motion a proper one. The office of register was not only an important one, but the duties were entirely separate and distinct from those of the treasurer. There could be no reason for uniting them, unless the duties of register were light; and this was not the case.

Mr. CORNELL remarked that he was a member of the committee which reported the article under consideration. He thought it would be well enough to unite the two offices in small counties, as it would be a saving of expense; but in large counties it might be well to keep them separate.

Mr. GARDINER thought if he could discern the signs of the times, there would be business enough in the counties for both officers. It was contemplated to transfer many duties now performed elsewhere, to the counties, and business would be increased in both offices.

Mr. BAGG, in addition to what had been said, would remark that in the county of Wayne the register of deeds had to employ three clerks, and the treasurer one, so great was the amount of business done in both of these offices.

Mr. CHURCH thought if the committee had reported a union of the offices of county treasurer and county clerk, it would have been well enough.

Mr. S. CLARK hoped the motion would not prevail. If, as gentlemen argued, the two offices were important, and salaries large, let the salaries be reduced. In the State of New York, in counties containing a population of fifty thousand inhabitants, the two offices were united, and the system worked well. He considered it entirely useless to retain them both. The argument that the offices were important, and should therefore be retained, was not good. If they were united, as they could easily be, it would be a saving of from ten to fifteen thousand dollars to the counties, in fees, &c. He was in favor of uniting the offices of clerk and register of deeds.

Mr. CRARY could not agree with the delegate from Kent, [Mr. CHURCH,] or the gentleman from Kalamazoo, [Mr. CLARK.] What was the duty of a clerk? It was his

business to attend the courts when in session. In the larger counties, the courts are in session four months of the year. During this time he must hire a deputy, or farm out the office.

Mr. COOK (in his seat.) Are they not farmed out now?

Mr. C.—Undoubtedly; but there is no necessity for holding out other inducements to farm them out. The clerk also attends the board of supervisors. For this he is paid extra, and for all extra services he would be paid, whether the offices were united or disconnected. Besides, a person may make a good clerk and a bad register. He may be a good register and make a very bad clerk. A clerk must have some knowledge of the law. He need not be a professional lawyer; but without some knowledge of the law in the line of his business, he cannot discharge the duties of his office.

Mr. J. CLARK remarked that when both offices were combined there had been no trouble in the small counties, in procuring the services of efficient men. At the time of the union of these offices the system worked well. As his friend from Kalamazoo [Mr. S. CLARK] had said, it would be a great saving of expense to the counties.

Mr. ROBERTSON hoped the amendment would prevail. He thought it was a matter which should be left to the people themselves to regulate. It had formerly been the custom in the county of Macomb to elect one man to fill the two offices; but when he became rich, and the business of the offices was sufficient to occupy the time of two men, the offices were filled separately. The register in Macomb county received probably about six hundred dollars; and four years was as long as any man could do the writing of such an office. The clerk received from three to four hundred dollars. By a division of the offices one man could not always hold two at the same time, but such would always be the case if they were blended in the Constitution. If new duties were to be thrown on the county treasurers they would not desire the office of register, and could not perform the duties, particularly if the duties of the Auditor General in regard to non-resident lands were to be transferred to the several counties.

Mr. HANSCOM was decidedly in favor of the motion. The business in his county (Oakland) required the time and attention of each of these officers for the transaction of their respective duties. There was no affinity between the duties of treasurer and register; and as had been remarked by the gentleman last up, it was a matter that should be left to the people to regulate. He was opposed to the principle of having one head with five or six clerks.

Mr. CHURCH thought that in a large majority of the counties the offices of register and clerk might be combined. In his own county (Kent) the register and clerk were both paid by the county considerable sums for services rendered the county. Why were these services charged for? Because, it was alleged, the compensation received in the way of fees from work done for individuals, was not, in itself, sufficient for their support. If the two offices were united upon one person, then his receipts from both would be sufficient to enable him to do all the work in each required by the county, without charge.

The small, or new counties, as they are called, would ever constitute the larger part of the State. Our population did not tend so much to a large increase in the older parts of the State as to diffusion throughout the unoccupied territory thereof. The high price of the land near villages and densely settled counties, drove immigration north; and in all the arrangements they were making they should have regard to that fact at present, and to it in the future. The great object to be attained was not merely that the counties might obtain from the officers now under consideration gratuitous services, but that such officers might perform the duties imposed upon them by law at reduced prices to individuals. In some parts of New England the charge for recording a deed did not exceed two shillings, while in this State it cost one dollar or more. A farmer proposing to make a small loan, or to secure a small debt, paid a dollar at least for the drafting of a mortgage, half a dollar for the acknowledgment thereof, and then, when it was executed, came the recording fee, always counted against him, about nine or ten shillings more; the aggregate of incidental charges making a disproportionate

per centum upon the principal thus secured. Just so in the case of a purchase of a small piece of land contiguous to his farm.

He contended farther in favor of the proposed union of the offices of county clerk and county register, or that the Legislature should have the power to prescribe the mode of their union whenever desired by any county.

Mr. BUSH asked whether it was customary to pay a salary to coroners, when their fees did not support them? It was not; and so it should be in regard to a clerk. There was not the least necessity to pay a salary to a clerk; if the fees of his office did not support him, he could look to something else. In many of the counties, no salary was paid that officer—his pay being only such fees as the law gave him. In New York, he believed, the matter was left open for the Legislature to regulate as they saw fit. In this State he thought the present arrangement in regard to county offices was satisfactory to the people. He had heard no complaint of grievances by them; in this hall he had heard the first expression of dissatisfaction against the office of register. That officer was paid only the fees given by law for the performance of his duties; but if he did business for the county, not properly coming within his official duties, it was nothing but just that he should be paid for it; he had a perfect right to charge for it. As there had been no demonstration in favor of a change, he hoped the amendment would prevail.

Mr. FRALICK was in favor of the amendment. He wanted the matter left open so that if the western and small counties saw fit, they might elect one person to fill both offices or not. The duties of register in the county of Wayne were equal to those of any State office, unless perhaps, those of the Auditor General's. So it was with the clerk's office; and he was not disposed to add new duties to either of them. It had not been many days since in that hall he had heard serious and strong objections urged against the appointing power; and if he properly understood the section under consideration, the appointing power under it was great. The treasurer would, in some counties, appoint five or six clerks, at a salary of from \$700 to \$800. So far as he knew, the old

counties were opposed to any such combination.

Mr. WILLIAMS thought the difficulties of the case could be met. It seemed evident from the statements of gentlemen from the more populous counties, that in those counties the offices could not with propriety be combined, while it was equally evident that in the smaller counties, the duties of the register of deeds ought to be imposed on the clerk of the county.

In case the various suggestions prevailed, if no one else did, he would offer an amendment to section 3, as follows:

"In counties containing not less than 25,000 inhabitants, the offices of clerk and register of deeds may be separated by the Legislature."

This would meet the case of large counties, while in all the small counties, these offices should remain identified. There were various reasons why the number of county officers should be reduced as far as practicable. In many counties the multiplication of officers with few duties to perform was a nuisance. The whole duties of treasurer, clerk and register, would not keep one man well employed. In the county where he resided, (St. Joseph,) a county of some thirteen or fifteen thousand people, he was sure that the duties of both clerk and register could be performed by one person without difficulty. In the county of Cass, he was told by a gentleman near him, that the duties of the county clerk could not fairly occupy more than one-third of his time. Besides, there were generally three expectants for the occupancy of each county office. These he would cut off. Some of them did nothing but lay back and wait their turn, sucking out the substance and living as vampires on the community until they could oust an incumbent or come uppermost by rotation. It was the interest of the public to diminish the number of such candidates by abolishing an office where it could be done.

Mr. KINGSLEY—Mr. Chairman, gentlemen who have addressed the Convention on this subject say the duties of the two offices can be performed by one person; yet they all know that these officers employ clerks. In the county of Washtenaw the clerk in the register's office receives twenty-five dollars per month, while the register gets about seventy-five, and

lives eight miles from the county seat. It is much better than farming. I hope the new counties will all be large in a few years, and that their business will be equal to ours. The gentleman from St. Clair [Mr. J. CLARK] is from New York, and imbibed his ideas of uniting the offices there.

Mr. J. CLARK—The gentleman is mistaken. I am not from the State of New York.

Mr. S. CLARK desired to make only a remark or two on the subject. What the gentleman from Calhoun [Mr. CRARY] had stated, might be correct—that a good register might not make a good clerk; but it did not follow that a good clerk would not make a good register. What, he would ask, were the duties of a clerk? Each member must be familiar with them. His duties were to keep the record of the courts, to be in attendance during their sessions, to attend the meetings of the boards of supervisors, &c., &c. His duties were such as by no means to disqualify him from being a good register. Gentlemen had raised a cry about "farming out" the office. There was no farming out the office. A clerk usually had a deputy in the office to attend to the duties during his necessary absence, and it was indispensable that there should be a deputy. The plain and only question was, whether the offices should be combined, and a saving of several hundred dollars made to the counties, or not. As the gentleman from Kent [Mr. CHURCH] had stated, these officers were paid a salary, amounting to several hundred dollars, by the counties, in addition to their legal fees, which might easily be saved if the offices were united on one person. The duties were compatible, and should be united. They had been united in counties in the State of New York, were five times more business was done than in any county in this State, save perhaps, the county of Wayne. In regard to complaints being made, the fact was not as stated by the member from Ingham, [Mr. BUSH.] In his county (Kalamazoo) there was great complaint.

Mr. CRARY—I did not state that the duties of the two offices were incompatible, but that they were not necessarily compatible. A clerk must have some knowledge of the law to perform his duties as they should be. But if it were so

desirable to unite the two offices, why had not the people elected one person instead of two? They had the privilege. He was opposed to all the propositions of union, but was willing to leave it to the boards of supervisors of the several counties—he was willing to leave the matter as it stood in the present constitution. In some counties they had elected one person to discharge the duties of two offices, and to this he saw not the least objection, if they desired it. In reference to what had been said about paying these officers, in addition to legal fees, he would ask, if by combining them, they expected the counties would be rid of paying them for extra services, work done for the county? The board of supervisors would allow their charges for work done. He granted that in some counties too large salaries had been paid to some of the county officers, but a combination of the offices would only give a larger salary to some big fish.

Mr. BAGG said, but a short time before, in the Convention, there had been a disposition to strike at the head of the Auditor General, and distribute the duties of his office among the several counties, and at the State Treasurer, to distribute his also; and now there was a proposition to centralize and unite two of the most important county offices. In the county of Wayne, the office of register was worth two thousand dollars, and that of treasurer was worth twelve hundred. Now, he would ask, was it democratic, and did it comport with the doctrine of rotation in office and the cardinal principles of democracy, to unite two such offices? It was, indeed, a singular idea, that because the salaries were large they should be united. If that were a correct principle, it would be better to put them all together for the benefit of one man, and make one great nabob. It might be better for the new counties to have the offices united, but he thought the matter should be left with the Legislature.

Mr. SKINNER, when he came here, expected to reduce all expenses where it could be properly done. The gentleman from Ingham [Mr. BUSH] was much mistaken in supposing that no complaint had been made in regard to the expenses of county officers. He [Mr. S.] had heard more complaint about county expenses than any thing else.

He thought the committee that reported the article under consideration had erred in reporting a union of the two offices they did. There was no affinity between the duties of the treasurer and those of a register; but he was decidedly in favor of combining the offices of clerk and register. He knew that no one man could perform the duties of the offices in the populous counties; they were so onerous that it would be impossible for him to do so; yet he could be at the head and overlook all the business and see that it was done faithfully. This would be a considerable saving of expense. One person at the head could easily have all the business done. The operation of performing the duties was mechanical and required no brains. One good head, with a sufficient number of clerks, where they were necessary, with proper salaries, was sufficient. If the number of offices were multiplied, the expenses must necessarily be increased. He was in favor of giving one man as much as he could do.

Mr. BUSH said the gentleman last up misunderstood him. He [Mr. B.] merely stated in his remarks that there had been no complaint of the number of county offices. He said nothing about complaint of expenses and fees.

Mr. WALKER had listened attentively to the triangular and quadrangular discussion that had been going on, in order that he might know how to act on the question, and to see what would be the probable result. He had begun to see what some gentlemen desired, and it was that one man should be elected to fill these two offices, with a view to farming them out or to make appointments to fill the very office which the people now filled by electing a man of their own choice. This would be the practical effect of the matter. Now, how did the case stand? In some counties the salaries of these officers were greater than that paid to any of the State officers, and yet it was proposed to combine them. One man could not perform the duties, and the consequence will be that he will farm them out. To this he was opposed, as well as to the appointing power proposed to be given in the section as reported. As stated by his colleague, it had been the practice in the county of Macomb to elect one person to fill two offices; but

when he become rich from the fees of office, the people took the matter in their own hands and elected a person for each office, and each of them had duties enough to perform. Unite the two offices, and they would be farmed out before the election took place. There certainly was great inconsistency in the cry of taking away all patronage from the Executive, and piling it up in the several counties.

If the combination were so desirable and so much demanded by the people, why was it not done? They had the power to do so. Allusion had been made, in the discussion, to New England. He had resided in New England, and in the county from which he came, there were twenty-seven registers. He felt confident that no saving of expense would be made by combining the two offices.

Mr. WILLIAMS—The gentleman from Macomb [Mr. WALKER] assumes that each of the several county officers has duties enough to perform, and that if combined they must be farmed out. Now I assert deliberately, that in two-thirds of the counties of the State, a single business man can be found who will transact more business and perform more drudgery than all the county officers together. It may not be so with the county of Macomb. I cannot speak with certainty of that county. I was never there but once, but it so happened that I then had business at a county office, and I could not find a single county officer at his office. This certainly did not show a very severe pressure of business. The county officers of Macomb may have full employment, but I do not believe it. I remember well that on another occasion I found all the county officers playing ball on the plain.

I am constrained to believe that in a great majority of the counties, a single man can easily perform the whole public business. The gentleman from Calhoun [Mr. CRARY] seems to think that if any offices are combined, it must be for the benefit of the big fish. I find a few sly words towards the end of the section—"whose duties and powers shall be prescribed by law." Let the Legislature prescribe the duties, fix the fees, give the officer a fair and just compensation, and then elect a man who can and will work, and all the duties will be better performed, and per-

haps at a great saving to the public. So far from gratifying big fish, I believe it a ready method of extirpating that class of natural loafers who swarm in every county, waiting for a revolution of the wheel, or a change in the ascendancy of parties, to bring them up. The gentleman from Calhoun says he would leave it to the board of supervisors to combine offices when they think it necessary. Why, sir, half of the board might, for themselves or friends, be looking forward to the enjoyment of these offices proposed to be combined. In each township there are always one or two loafers who study to shun work, and reach the dignity of a county office. Such men can get up a spurious public opinion, and bring it to bear on the action of the board of supervisors. When the sky falls, I think it probable that offices now separate may be combined by the action of the supervisors.

Mr. WALKER—To what office did the gentleman from St. Joseph apply when his business carried him into Macomb county?

Mr. WILLIAMS—In searching for one office, I went to every public office, and found every door locked. It was several years since, and about four o'clock in the afternoon.

Mr. McCLELLAND had listened to the discussion, and thought the suggestion of the gentleman from St. Joseph [Mr. WILLIAMS] a good one. If left to the board of supervisors, there would be no uniformity throughout the State in regard to these offices, which was certainly desirable.

Mr. BRITAIN rose merely to call the attention of members to the question before them. In the long discussion, no one had discussed the proposition before the committee.

Mr. CHAPEL said it was assuming a good deal to suppose that he could perfect the section, yet he would read a substitute which he proposed to offer. It was as follows:

"In each organized county there shall be one sheriff, a county clerk, who shall be the clerk of all the courts of record and the board of supervisors, and discharge the duties of county auditor, a county treasurer, a register of deeds, a county surveyor, a prosecuting attorney, one or more overseers of the poor, who shall be ex officio coroners, a board of supervisors,

who may increase or decrease the number of the officers, as the interest of the counties may require, who shall be chosen by the qualified electors thereof once in two years, and as often as vacancies shall happen, whose duties and powers shall be prescribed by law."

Mr. C. said it would be seen that by the substitute the board of supervisors could diminish the officers if necessary.

Mr. MOORE thought the substitute something like what was desired. He thought the board of supervisors the proper persons to say whether it was proper to combine the offices.

The question was then taken on the amendment of Mr. KINGSLEY, and carried.

Mr. CHURCH moved to amend section 3 by inserting after "county," where it first occurs in line two, "and register of deeds," and by striking out in lines two and three, the words "register of deeds."

Mr. McCLELLAND would suggest to the gentleman from Kent [Mr. CHURCH] to offer all the amendments at once.

Mr. WILLIAMS—That would be taking my thunder. I have no objection.

Mr. CHURCH moved to amend further by adding at the end of the section, "in counties containing more than 25,000 inhabitants, the offices of county clerk and register of deeds may be separated by the Legislature."

Mr. BRITAIN asked for a division of the question on the two propositions.

Mr. B. said he had listened patiently to the discussion that had been going on, although he considered it out of order, as it was not on the proposition before the committee. The arguments of the gentleman from Kalamazoo seemed based on the assertion that the offices were united in the State of New York. Such was the fact, but it did not follow, nor was it any reason, that they should be united in this State. It was said by members that by uniting the two offices a decrease in the county expenses would ensue; but he was confident this would not be the case. In the State of New York, in the same office, it cost more for having work done than here; larger fees were paid. In his own county the plan of electing these officers had worked well. They always had the best talent to fill them, and they were frequently filled by young men who, by economy and prudence, were

enabled to educate and fit themselves for future usefulness.

The gentleman from Calhoun [Mr. CRARY] had said that the offices were incompatible, and the gentleman from Kalamazoo [Mr. S. CLARK] had taken issue with him, and said that a clerk could, with his knowledge of the law and an acquaintance with his duties, perform the duties of register. He thought the legal profession should be satisfied with the assurance of the gentleman from Washtenaw, [Mr. SKINNER,] that it required "no brains" to discharge the duties of the office. It was a notorious fact that the legal fraternity were the worst writers to be found, and therefore they would not make good registers.

He was in favor of leaving the offices open to competition among the people. How frequently was it the case that men went into these offices and fitted themselves, as he before stated, for future usefulness? He had known men to go and live at the county seat for \$200, in order that they might obtain the means of improvement. In new States like our own, there were always land agencies and other work these men could get, sufficient to compensate them, and for which they were willing to labor. The gentlemen from Macomb have told us that it has formerly been the custom in that county to elect one man to fill two offices, and it has become necessary to separate them.

He hoped members had not returned here for the purpose of making offices for their friends. The combination of these offices would be preparing offices for persons advanced in life, with large salaries, and taking them from those who had heretofore held them, and who held them to prepare themselves for future usefulness.

Mr. S. CLARK—Did the gentleman base his argument on the assumption that I said a clerk must be a lawyer?

Mr. BRITAIN—I understood the gentleman to say that it was necessary for a clerk to have a knowledge of the law.

Mr. S. CLARK—I did not say so. I do not know a single member of the bar who is a county clerk. My argument was to dispense with one of the officers and save a large annual expense to the counties.

Mr. CRARY—As I have been the means of getting up this discussion between the gentlemen who have just taken

their seats, I will state what I said. My remark was that it was necessary for a clerk to have some knowledge of the law. This is necessary in order that he may keep a correct record of judicial proceedings. I believe the gentleman from Kalamazoo [Mr. S. CLARK] is a farmer.

Mr. S. CLARK—It is true that I am an humble farmer, and have also had some experience in the practice of law; and it is equally true that I will never degrade a respectable profession by casting reflections on its members. It was this course, pursued by certain members of the bar, that had degraded the profession and brought it into such disrepute that it was only necessary to cry "lawyer," to bring odium on a person. Such reflections he despised and scorned.

Mr. WILLARD—Mr. Chairman, as the Sergeant-at-Arms seems to be asleep, I would suggest the propriety of having him waked up by the Doorkeeper.

Mr. ORR remarked that he was willing to leave it to the people to say whether the offices should be united or not; if they wanted both, let them have them.

Mr. O. then read an amendment he proposed to offer.

On motion of Mr. BAGG, the committee rose, reported progress, and asked leave to sit again.

The committee, through their chairman, reported the article back to the Convention, and asked and obtained leave to sit again.

On motion of Mr. COOK, the Convention then adjourned.

Afternoon Session.

The Convention was called to order by the PRESIDENT.

On motion of Mr. McCLELLAND, the Convention resolved itself into committee of the whole on the general order, Mr. EATON in the chair.

The committee resumed the consideration of "Article —, County Officers and County Government."

The CHAIR stated the question to be on the amendment offered to section 3, by the gentleman from Kent, [Mr. CHURCH,] by inserting after "county," where it first occurred in the 2d line, the words "and register of deeds," and by striking out in

lines 2 and 3 the words "register of deeds." Also, by adding at the end of the section, "in counties containing more than 25,000 inhabitants, the offices of county clerk and register of deeds may be separated by the Legislature."

Mr. WALKER said he rose to make an explanation. At the time the gentleman from St. Joseph [Mr. WILLIAMS] visited the county of Macomb, and found no one in the county offices, the same person held the office of clerk and register of deeds, and he was a whig.

Mr. WILLIAMS—It seems, then, that a whig can perform the duties of both offices and play half the time.

Mr. GOODWIN said as there were some considerations that had not been alluded to, which might have a bearing upon the proper consideration of this question, he would detain the attention of the committee for a few moments. He thought that the practical workings of the proposed combination had not been clearly presented to the committee. It was true that the emoluments of the county offices in the large counties were very considerable, more even than our State offices; but this would ever be so under whatever system was adopted. But it was necessary that a proper responsibility was secured for the proper performance of every public duty; and it might be questioned whether, in imposing the duties of clerk of the courts and register upon one individual, that object would be accomplished. Besides, it would be but fair and right for a proper distribution of these emoluments.

The amendment proposed was very objectionable in one particular—that it made the register clerk of *all* the courts; that of judge of probate as well as all the others. Now, it was known to all that the fees of that officer for his clerical duties constituted almost his entire compensation, and in order to secure such officer a proper compensation, a salary would have to be provided. The force of this objection would be seen at once, and would suggest the impropriety of the proposition in this particular.

It seemed to him that a misapprehension of the bearing of this question on the new counties existed. The new counties, it was true, were thinly populated; but they were fast filling up, and as a consequence their business was increasing. The business of

the older counties would remain nearly stationary, while that of the newer counties was greatly increasing, and it would not be long before they would be close upon the older ones. The county which the gentleman [Mr. CHURCH] represents, was not even mentioned in the present constitution, and was not organized; but now it has three representatives on this floor. The business in the register's office incident to the settlement of a new county was very much more than the same amount of population would require in the older counties; and on the assumption that these counties were to go on increasing, it must be presumed that the proper discharge of the duties, and a proper personal responsibility, would dictate a separate officer for these distinct duties.

Another consideration which affected these new counties was the extent of territory attached thereto for judicial purposes. Several counties were attached to Kent, and of course all of their business was transacted by the officers of that county. And this was the case with all the newer counties, and would continue to be the case until the whole State was settled.

It had been urged that by combining these two offices they would be less expensive to the counties. But, was this so? The fees of course must be uniform throughout the State; or else the business of one office be made to pay a part of the county expenses. And was it a matter of right that a few individuals should be heavily taxed in the way of fees for the support of other county expenses, because they have public business to transact through their county offices? Was it usual for private individuals to pay for services for the county?

If a course shall be adopted which will combine these offices, it would be but increasing so much the compensation of the officers, without diminishing the public burdens, and the greater emoluments thrown upon the officer without securing the attention and responsibility which would be secured were the duties properly separated. It was but just and right that every duty which was of sufficient importance to command the time and attention of an individual, should be imposed on individual responsibility.

But, if the object sought by the amend-

ment was in accordance with the views of the Convention, it would be better to leave it with the respective boards of supervisors. They would be the better judges of the wishes of their respective counties; or, if the people deemed it expedient, they could elect the same person to both of these offices. This would be better. And thus in the smaller counties the difficulties would be obviated, and the very desirable object of securing a personal responsibility would thus be secured.

A division of the question being called on the amendment, the committee refused to strike out.

Mr. MORRISON moved to add at the end of section 3, "it shall be competent for the Board of Supervisors in the several counties containing less than 25,000 inhabitants, to combine the offices of County Clerk and Register of Deeds in one office."

Mr. M. said he thought his proposition embodied the wishes and feelings of gentlemen who had spoken, and he therefore offered it.

Mr. J. D. PIERCE moved to strike out "25,000" and insert "20,000;" and a division of the question being called for, the committee struck out "25,000."

Mr. COOK moved to fill the blank with "30,000;" which motion did not prevail.

The question recurring upon filling the blank with "20,000," the same was lost.

Mr. CRARY moved to strike out the words "containing less than 25,000 inhabitants."

Mr. CORNELL remarked that there had been a good deal of discussion on the subject, and all felt anxious to retrench; but it seemed they could not agree on a plan. He had given the subject some attention, and come to the conclusion that it should begin at the ballot box—be acted upon by the people themselves. It seemed that the question had resolved itself to this—shall the Supervisors have the power to legislate to some extent? He thought they were competent. They had the people at their elbows, and if abuses crept in they could be soon corrected, under the immediate supervision of the people.

The question was put on the motion of Mr. CRARY to strike out, and carried.

On motion of Mr. CRARY, the words "or disconnect the same," were added to the amendment.

Mr. BRITAIN moved to amend the amendment of Mr. MORRISON by inserting after "deeds," the words "or county clerk and judge of probate."

Mr. B. said as this was a new proposition, he trusted the committee would pardon him for detaining them a short time. It would be seen that by his amendment, if a county clerk had not business to occupy his time, the board of supervisors could give him something to do.

Much had been said about the injustice that would be done the new counties by retaining the office of register of deeds separate and distinct from that of the clerk. He considered that the gentleman from Wayne [Mr. GOODWIN] had successfully answered all the objections urged by gentlemen against the office of register, and shown that the new counties, on account of their rapidly increasing population, could not dispense with that officer. The large amount of territory frequently attached to new counties, must, even in these counties, though thinly populated, throw quite an amount of business in the register's office. He thought the office of register was one that should be left to the people. How many young men, fully competent to discharge the duties, were there who would be glad to obtain the office even in the new counties? Reduce the price of recording deeds and mortgages to four shillings, reduce it to three shillings, and the office would always be filled. He had heard of one man who had all his deeds, &c., recorded for one shilling each, while he, the register, walked about the streets and put two shillings in his pocket. He knew another who paid two shillings for the recording, while he pocketed six. So it would be seen that it was not necessary to abolish the office to reduce the expenses.

If (said Mr. B.) it is necessary to give the clerk more to do, if he has not business to keep him employed, then give him the work of the judge of probate. If he was not mistaken, there was more propriety in blending these two offices than those of clerk and register.

Mr. SULLIVAN thought the duties of these offices incompatible; more so than those of clerk and register. The duties of a judge of probate could not be performed by a deputy.

Mr. BRITAIN remarked that he offered the amendment with diffidence. It was for the consideration of the committee.

The question was taken, and the amendment lost.

Mr. WALKER moved to strike out of section 3, the words, "who shall be the clerk of all the courts of record to be held in the county."

Mr. W. said that a section in the article "Judiciary," defined the duties of clerk.

The motion was carried.

Mr. MOORE said he was a little too late, but he should like to hear the reasons for striking out. Was it to create another office? The committee should look to these things.

Mr. CHAPEL withdrew his substitute offered in the forenoon.

Mr. ROBERTS offered the following as a substitute for the section:

"In each organized county there shall be one sheriff, a county clerk, a county treasurer, a county surveyor, and a prosecuting attorney, chosen by the qualified electors thereof, once in two years, and as often as vacancies shall happen, and whose duties and powers shall be prescribed by law: counties having more than twenty thousand inhabitants may separate the duties of register of deeds from the office of county clerk in such manner as the Legislature may prescribe."

Mr. S. CLARK hoped the substitute would prevail. It contained the substance of the proposition of the gentleman from Kent, [Mr. CHURCH.] He thought that the offices of clerk and register should be combined, to save unnecessary expense. The arguments of the gentleman from Wayne [Mr. GOODWIN] had but little force. It was not a sound reason that, because in the old counties the fees or salaries were large, the office of register should be retained. The fees could be cut down, and they would be when the people complained of them. The gentleman from Berrien [Mr. BRITAIN] had stated that in one office he had heard that the register had his deeds, mortgages, &c., recorded for one shilling. Then two shillings were enough to be paid for that work. As remarked by the gentleman from St. Joseph, [Mr. WILLIAMS,] he was in favor of cutting off these greedy expectants and hangers-on for office, by reducing the fees to a

proper value, and combining offices where it could be done.

Mr. WALKER moved to amend the substitute by inserting after the word "treasurer," "a register of deeds." Carried.

Mr. WILLARD moved that the committee rise, report progress, and ask leave to sit again; but the committee refused to rise.

On motion of Mr. CRARY, all after "law," of the substitute, was stricken out.

The question then recurring upon the adoption of the substitute, and a division of the same being demanded, the committee refused to strike out section 3.

Sec. 4. The county clerk, county treasurer, judge of probate and prosecuting attorney, shall hold their offices at the county seat.

Mr. ROBERTSON moved to amend by striking out "prosecuting attorney," and inserting "register of deeds." Carried.

Mr. WILLARD moved to strike out "judge of probate;" but the committee refused to strike out.

Sec. 5 was read and passed without amendment.

Sec. 6. A board of supervisors, consisting of one to be chosen from each organized township, shall be established in each county, with such powers, to be uniform throughout the State, as is hereinafter prescribed.

On motion of Mr. SUTHERLAND, section 6 was amended by adding at the end thereof, "and as shall be prescribed by law."

On motion of Mr. FRALICK, the words "to be uniform throughout the State," were stricken out.

Sec. 7 was not amended.

Sec. 8. The board of supervisors shall have power to organize new townships, and may grant privileges to construct bridges or mill dams, or to lay out roads in their respective counties; but no township shall be organized of less dimensions than the United States survey thereof.

Mr. McCLELLAND moved to amend section 8 by striking out to and including "mill dams," and inserting, "The board of supervisors shall have the exclusive power of organizing and dividing townships;" which motion did not prevail.

Mr. SUTHERLAND moved to add to

section 8: "and exclusive power to pass acts creating local corporations under general laws, and for such other local purposes and in such manner as the Legislature shall by law prescribe."

Mr. S. said he had understood, before he came here, that local legislation was to be taken from the Legislature and given to the local authorities. The Legislature had expended a vast amount of time on local matters and questions, and he thought it proper they should be transferred to the authorities of the several counties.

Mr. HANSCOM said he was opposed to giving to any local authorities any such power as that contemplated by the amendment. He hoped it would not prevail.

Mr. CRARY thought the amendment had a very broad foundation; it gave exclusive power to the board of supervisors to pass acts under general laws. He believed it was proposed to have general laws on most matters. They wished to send legislation out of these halls, but they should be careful that in restricting the Legislature, and giving legislative power to local boards, they did not create seventy legislatures instead of restricting one. He was in favor of giving the supervisors certain powers, but not to the extent spoken of and proposed by the amendment. He would rather give it to the townships, and let the people come together, as in old Greece, and decide all questions.

Mr. J. CLARK thought there was too much jealousy of the Legislature. Much had been done amiss by that body, but the Convention should not take all power from them—it should be cautious, and not give supervisors too much power. In the way they were proceeding, the Legislature would be too much restricted.

On motion of Mr. MOORE, the committee rose, reported progress, and obtained leave to sit again.

On motion of Mr. VAN VALKENBURGH, the Convention adjourned.

WEDNESDAY, (26th day,) July 10.

The Convention was called to order by the PRESIDENT.

Prayer by the Rev. Mr. SANFORD.

PETITIONS.

By Mr. EATON: of David Carr and 33

others, praying for the abolition of the present grand jury system.

Referred to the committee on the bill of rights.

By Mr. McCLELLAND: of Charles Vellet and others, of La Salle, Monroe county, about township matters.

Referred to the committee on township officers and township government.

By the PRESIDENT: memorial of Geo. E. Hand and 25 others, of the bar of Wayne county, asking that the Convention will make the Supreme Court a separate and distinct court from the circuit, and held by separate judges.

Laid on the table.

By Mr. CORNELL: of J. E. McAllister and 32 others, praying that the Legislature may be prohibited from legalizing the sale of alcoholic drinks as a beverage.

Referred to the select committee on the subject.

By Mr. H. BARTOW: of citizens of Ionia county, that an article may be incorporated in the amended constitution prohibiting the sale, manufacture or importation of intoxicating liquors, except for mechanical or medicinal purposes; also,

By Mr. ROBERTSON: of I. B. Dickinson and sixty-three others, praying for the same.

Referred to the select committee on the subject.

REPORTS.

Mr. J. BARTOW, from the committee on the organization of the government of cities and villages, reported

ARTICLE —.

Of Cities and Villages.

Sec. 1. It shall be the duty of the Legislature to provide for the organization of cities and incorporated villages, and to restrict their powers of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments and in contracting debts by such corporations.

Sec. 2. All judicial officers of cities and villages shall be elected at such time and in such manner as the Legislature may direct—all other officers of such cities and villages shall be elected by the electors thereof, or appointed by such authorities thereof as the Legislature shall designate for that purpose.

Sec. 3. Private property shall not be

taken for improvements in cities and villages without the consent of the owner, unless the compensation therefor shall first be determined by a jury of freeholders of such city or village, and actually paid or tendered in the manner to be provided by law.

The article was read a first and second time by its title, referred to the committee of the whole and ordered printed.

Mr. WOODMAN, from the committee on the punishment of crimes, to whom was referred a resolution directing said committee to inquire into the expediency of providing for the abolition of capital punishment, reported

ARTICLE —.

Punishment of Crimes.

"The punishment of death is forever prohibited in this State."

Which was read the first and second time by its title, and referred to the committee of the whole.

Mr. McCLELLAND gave notice that on to-morrow he would call up the article entitled "Legislative Department."

On motion of Mr. COOK, the Convention resolved itself into committee of the whole on the general order, Mr. EATON in the chair.

The committee resumed the consideration of Mr. SUTHERLAND's amendment, which was to add at the end of section 8, "and exclusive power to pass acts creating local corporations under general laws, and for such other local purposes, and in such manner as the Legislature shall by law prescribe."

The amendment did not prevail.

Mr. BUTTERFIELD moved to amend section 8 by adding "no organized township shall be divided without the consent of a majority of the electors."

Mr. N. PIERCE would inquire if four townships were organized in one, if it would not prevent a separate organization of any one town, if a large majority was in one town, and chose to vote against it?

Mr. BUTTERFIELD—The object was to prevent any sub-divisions of old and well established township lines in the older and more settled portions of the State. There are in the neighborhood of Jackson many old town lines not bounded by the original survey of the United States. They are six by eight miles, and the object is to

prevent them from being sub-divided without their own consent. I am not particular as to the phraseology, but I am satisfied that something of the kind should be done to preserve their rights.

Mr. COOK—The amendment would be construed to give authority to divide the townships, so as to make them the size of the U. S. survey, six miles square.

Mr. BUTTERFIELD understood that the section, as it originally stood, conferred the power; if that was not the fact he would withdraw the amendment.

The amendment was withdrawn.

Mr. CLARK moved to strike out "mill dams."

That was not a local question. Look at the St. Joseph River. If you give authority to build a mill dam at the mouth of that river, you can easily perceive that it is not a local question. There may be a question as to that right, as it is a meandered stream; but whether so or not it is safer to do without it; therefore, I think it should be left to the Legislature.

Mr. FRALICK moved to amend by striking out "and may grant privileges to construct bridges or mill dams, or to lay out roads in their respective counties."

Mr. F. said—I think that it should be stricken out—that it is mischievous in its tendency—gives a great deal of trouble and expense, and will be useless. All the arguments of the gentleman from Kalamazoo will apply as well to these words.

Mr. WOODMAN hoped that the amendment, so far as it related to roads, would not prevail. He considered it perfectly competent for the supervisors to lay out roads, and if that part was insisted upon he should vote against it.

Mr. FRALICK—The power of making roads is in the towns. I have heard no complaints. There is probably not a county road in the State. The roads, when laid out by the towns, become State roads.

Mr. COOK—The supervisors have authority to lay out county roads. The towns have only the power to lay out town roads.

Mr. WALKER—It is well known that for the last seven or eight years we have had numerous applications to the Legislature to pass acts authorizing the erection of mill dams and bridges across streams that are called, but never have been or can be by any possibility made, navigable. Clin-

ton river, for instance, was never navigated by any craft whatever, higher than the village of Frederick, in Macomb county, and yet it is declared to be a navigable stream for twenty or thirty miles higher up.

There will be applications for other dams on other streams. An application is made to a body that knows nothing about the matter, except what they derive from the members of the county. It seems to me that it would be safer to leave this in the power of the local magistrates, who could judge better of the propriety of allowing mill dams to be constructed across each stream, than to leave it to the Legislature. Look at the session laws; the applications are numerous, and have generally been successful. I therefore think it would be a safer and better way to leave it to the supervisors.

Mr. J. BARTOW—I am obliged to differ from my friend from Macomb, and I think the argument of my friend from Kalamazoo conclusive. The streams run through various counties, and the rights of one county might be seriously affected by the action of a local board below or above them, and over whose action they could have no control. Grant this power, that a county, for its own purposes, may dam a river without providing a lock, and all the county above would be deprived of the navigation of the stream. In our county it would be highly injurious—absolutely ruinous to our prosperity. It has been difficult to keep the Legislature from meddling with the navigable streams, and at one session nearly half the time was taken up in quarrelling about a mill dam in our section. To be sure, the question was tested and defeated; but if a board of supervisors could have erected the dam, we should have had no remedy.

Mr. MOORE—I hope that "mill dams" will be stricken out; it will be very singular if a board of supervisors are invested with authority to stop the products of a county from passing on the waters of a navigable stream; but bridges and roads are different things. They are made for affording facilities to the inhabitants. Therefore I think that power might be given. I hope, therefore, that nothing but "mill dams" will be stricken out.

Mr. WALKER moved to amend by in-

serting after "mill dams," "across streams not actually navigable."

Mr. W.—There may be an objection with respect to the larger streams, but some that are meandered cannot be made navigable.

Mr. BARTOW—If this has reference to the streams declared so by the Ordinance, it comes in conflict with it. It enables a local board to over-ride every thing—to say this stream is navigable, that stream is not—it would be a dangerous power in their hands.

Mr. CHURCH—I can see no objection to entrusting this power to a board of supervisors. Take a stream that is navigable, neither the Legislature nor the board have power over the stream. Take, for instance, the case of a stream that is meandered and is not navigable, and that there is a necessity for a dam being thrown across the stream; that either public or local interests will be promoted by it, and I would ask, where can power be more safely or more wisely invested than in a board of supervisors?

And if the board should grant permission to build such a dam, they do not thereby injure the rights of any other person; they give a sanction which may be necessary for avoiding litigation, but they cannot give any character to the stream. You preclude no rights that any person holds under the constitution of the United States.

The Legislature must act with much less knowledge of the facts than the supervisors; but whether granted by either, the person so receiving the grant can do little without the sanction of private individuals; and I think that he had better go to a board of supervisors than consume the time of the Legislature unnecessarily.

Mr. CRARY said there seemed so much difference of opinion respecting this section that he moved to strike it out. The twelfth section contained all that was necessary in relation to legislative power being given to a board of Supervisors. He was disposed to give Supervisors power to construct bridges, to organize new townships, in some cases to lay out roads and even other powers not included in the section; but he could not vote to give them the power to grant charters of incorporation for local purposes, even under general

laws. While this power was being taken from the Legislature, he could not vote to transfer it to any board of Supervisors. The power of granting privileges to erect mill dams was of doubtful propriety, if these dams were to be erected on our navigable waters. These we had no right to obstruct by granting privileges to individuals. We could improve their navigation, but not obstruct it by authorizing the construction of dams for milling purposes.

He denied that the Ordinance of 1787 was now in force in Michigan. When we became a State of the Union we entered into new relations with the United States. We were admitted upon a footing of equality with the old States, and acquired the same right of sovereignty and jurisdiction over our navigable waters that belongs to the old States. By the act of admission, the jurisdiction of the State is made co-extensive with its limits. The language of the act of admission is that the State shall have "*jurisdiction*" over every thing within the limits assigned her. This language abrogates every clause in the Ordinance whereby our lakes, rivers and carrying places were made the common highways of the Union. The State stands in all her relations to the Union as one of the old thirteen, except in those cases where she voluntarily agreed by the compact then entered into, to stand in a different relation. By compact she agreed not to interfere with the primary disposal of the soil, and not to tax non-resident lands higher than resident. She however entered into no engagements about the waters of the lakes or of the rivers. And therefore, in respect of these, she is on an equal footing with New York or Pennsylvania.

Mr. WILLIAMS would like to know if it was in order for one member to interfere with private relations of other members. If the assumption of the gentleman from Calhoun [Mr. CRARY] is correct, he feared the gentleman from Berrien, near him, [Mr. BEESON] would claim a reimbursement of a judgment obtained against him by the speaker. The gentleman from Berrien would doubtless be grateful, but he had actually paid a judgment obtained under a decision which rested entirely on the validity of the Ordinance, wherein our own laws were made to succumb and yield to

the superior validity and force of the Ordinance of 1787.

Mr. CRARY—If the courts come to that decision, it is not my decision.

Mr. WHIPPLE—There is a case which was fully discussed and elaborately examined, and by turning to it, the Convention will ascertain the doctrine as laid down by the court with regard to the Ordinance. I think the case should be examined, for it is admitted that it conveys an exact exposition of the law upon the subject.

Mr. CORNELL—I am surprised at the course the discussion has taken. The Legislature can grant but little; the supervisors can give no more. It merely intends that the question shall be brought nearer to the people. The grants cannot take away private rights; it is simply to bring the question where the grant can be rightly judged of, because known; as many cases have proved highly injurious where mill dams have been erected.

Mr. McCLELLAND—I rise, not for the purpose of inflicting a speech upon the committee, but to propound one or two queries to the chairman of the committee reporting this bill. I desire to know whether the object is to give to the board of supervisors the *exclusive* right to organize new townships; or whether the intention is to give the power also to the Legislature? If the former, then the language used will not admit of such construction. The expression, "the board of supervisors shall have the power to organize new townships," does not take the power from the Legislature. My wish is to give it to one or the other, exclusively; and hence my former motion. It should be confided to the board of supervisors, because they are the most competent to discharge the duties. Every one will see the impropriety of submitting it to both, because then there will be a constant appealing from the judgment and decision of one to the other. If the section is not amended, I shall vote to strike out; but if the power is given exclusively to the board of supervisors, I will vote to retain it.

In relation to the question mooted, about bridging navigable streams, &c., I would ask my friend from Berrien, what are the principles involved in the case of the Wheeling suspension bridge over the Ohio river; and whether the decision of

the Supreme Court, already strongly intimated, will not in all probability give us such a basis as we desire, upon which to establish the claim for which most of us contend. As I understand the matter, the only doubt in the minds of that court is, whether the bridge is an obstruction to the navigation of that river; and Chancellor Walworth has been appointed to ascertain that fact.

Mr. CHURCH—I agree with the gentleman from Monroe, that the power should be possessed by one body exclusively; and I believe that it should be possessed by the board of supervisors. I opposed the amendment, yesterday, because it gave them authority to divide townships. If he will leave out that portion, and by any phraseology give the board power to construct mill dams, roads and bridges, I shall vote for it, as I am convinced that it will be more proper that they should possess that power rather than the Legislature. We give them nothing that can conflict with individual rights.

Mr. S. CLARK—There are two questions to be considered—expediency and right. First, as to its expediency: It strikes me that it cannot with as much propriety be confided to a board of supervisors as to the Legislature. It is a very important question; and this is a local board to whom you propose to entrust it. It acts for the county, and for the county alone. Does it follow as a matter of course, that the interests of one county are identical with those of the county above or below it? No sir; they conflict. They have conflicted in the case that has been mentioned, in which I was counsel. The gentleman prosecuted the matter on account of a lock's giving way. His flour was destroyed, and he had to resort to law.

The interests of the counties conflict, and the power should not be placed in the hands of one. The erection of a dam might benefit one, while it seriously impeded another county. It should be left for the action of the Legislature.

Secondly, as to our rights. The gentleman from Calhoun [Mr. CRARY] contends that the Ordinance has been over-ridden. In answer, it is enough to refer to the decisions of the courts of law.

In my own practice, the Ordinance has always been held valid. If the river is

obstructed, we get the obstruction removed as a nuisance, except when a lock is put up. In Indiana the same thing has been held. There it was held that the dam was properly erected because a lock was built, and that instead of being an obstruction it improved the navigation. And if the gentleman will examine the case, he will find that was the ground taken.

I do not object to the board of supervisors as a body; they are probably composed of intelligent men, but they are a local board, and should act for local purposes.

Mr. BACKUS—I should be sorry, Mr. Chairman, to see that part of the section that relates to the division and organization of towns struck out, as is now proposed, for it contains within itself wholesome provisions for local legislation, which had better be done at home than abroad; I mean with regard to the organization of towns within your counties.

The difficulties which have been suggested may be obviated by confining the operation to such counties as have been organized; and I think that the division and organization of townships can be left with greater safety and more justice to their board at home, rather than to a legislative body. For one, I shall be glad to vote for any provision that shall be conclusive and exclusive—precluding the Legislature from interfering in the division or organization of townships.

As far as relates to the other provision, it contains matters that are at least dangerous to commit to the care of a local board—the power to grant privileges to construct bridges or mill dams. Let either hypothesis that has been maintained be correct—whether the waters are or are not under the entire power or sovereignty of the State—it is of the greatest importance, as the powers given to the local board are the highest that can be exercised. A river originates in a remote county, and runs through various counties—can we safely permit the control of that river to be exercised by one county?

Something has been said about the Ordinance; and gentlemen, to obviate the difficulty, have proposed an amendment of this character: to insert “waters navigable in fact.” Navigable for what, sir? A Seventy-Four, or a bark canoe? The constitu-

ents of my friend from Mackinaw transport their commerce in bark canoes; and their rights are as inviolable as those of any others; so that the amendment would obviate no difficulties, even if it designated the class of vessels. The rights of the humblest citizen to transport his commerce in the smallest bark canoe is just as sacred and as inviolable as if he employed the largest class of vessels.

If the Ordinance was within our control, and by us repealable, or if it had now no force, and the adjudication of the courts recognized the exclusive and complete sovereignty of the State over the waters designated as navigable in the Ordinance, we ought still to hesitate long before giving this power proposed to a local board. But, even our own courts hold that the Ordinance is only revoked so far as its provisions conflict with the provisions of the State constitution; in other words, the adoption of a constitution with provisions repugnant to the provisions of the Ordinance, and the sanction of such constitution by Congress, forms the *common consent* contemplated by the Ordinance necessary for its repeal. Then, and then only, it is revoked. Until this common consent is obtained, the provisions of the Ordinance are of binding force upon the district of territory, and the State formed out of it. It is the law binding and limiting the power and rights both of the citizens of the State and United States. This principle was clearly shown and enforced in a case which elicited much talent and research. I allude to the case of *McConnel vs. Spooner*; in which the U. S. Circuit Court said that it was competent to lock or dam a river and improve it, but not to obstruct it.

If gentlemen will turn to adjudications in the State of Ohio, they will find that the decision of our own courts; in the case on the St. Joseph river, has followed and enforced the same principle. The decisions in Indiana enforce this construction as well as Ohio, and the question arose upon the force and validity of the Ordinance. At the places where the questions have arisen, the streams were not navigable for the smallest class of schooners, but they were boatable.

What is the rule of the Ordinance? That the waters shall be free only to the citizens of Michigan? No sir: but to the citizens

of all the Union. Can Congress revoke this? No sir; and yet you propose to commit it to the action of 30 or 40 legislative bodies sitting in the various counties, to wit: the boards of supervisors. The courts of Indiana have ruled and held the proposition as broad as this: that it is incompetent for the Legislature to grant a power to construct a dam across waters that are navigable. If gentlemen dwell upon technicalities, there is not in the N. W. Territory one inch of navigable waters, according to the maritime law of England and the admiralty jurisdiction; for that means where there is an ebb and flow of the tide, with which we are unacquainted. What does it mean then with reference to these streams? It means that if the streams afford carrying places for our produce, that are boatable, they shall not be subjected to the interference of any local authorities obstructing it.

The Ordinance of 1787 is common to all the States, and covers the whole extent of the North West Territory. It vests in all the citizens certain rights; and secures those rights to all. Common consent can revoke it; and if the Constitution comes in conflict with it, it is revoked; if not, it is still operative. I consider it a power that is dangerous to commit to the boards of supervisors, to say that they may obstruct the free navigation of the waters. You cannot give the power. I should wish to see the right kept sacred, and guaranteed in the Bill of Rights.

I think that the provision relating to roads should be given to the towns as far as we can. They have a more immediate knowledge—they are more capable of judging of the public necessities, and of the necessity of public highways. With regard to the power of dividing the towns, I think that if gentlemen look at it they will see that it has cost the State a great deal, and that the power can with equal safety be committed to the board of supervisors.

Mr. WHIPPLE—There are, Mr. Chairman, questions of considerable delicacy involved in this discussion; it is important, therefore, that the Convention should deliberate long before granting the power to the supervisors contemplated by the section under consideration.

That part of the Ordinance of 1787 having a direct bearing upon the clause

proposed to be stricken out, is found in the fourth of the articles of compact, and is in these words: "The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways, and forever free, as well to the inhabitants of the said territory as to the citizens of the United States, and those of any other States that may be admitted into the confederacy, without any tax, impost or duty therefor." Now, sir, these articles of compact "between the original States and the people and States in the said territory," are declared to be "unalterable, unless by common consent." It is quite manifest, then, that these articles are of binding force, unless they have been repealed by consent of the parties to them. I am not aware that either party to the compact have ever given their consent to the abrogation of the clause in question; if not, it is obligatory on the people of this State to preserve it inviolate.

Would it, then, be safe to delegate to the several boards of supervisors the power to authorize obstructions in the navigable rivers of this State? I think, sir, it would be hazardous to confer such a power. Its exercise involves questions of a character too complicated and intricate to be safely lodged in a tribunal constituted as our boards of supervisors are. The interests, not only of our immediate constituents, but of the people of the United States, are to be protected. Whether, in a given case, an authority to obstruct one of our navigable rivers, is justified by the Ordinance, presents a judicial question, the determination of which should be submitted to the judicial tribunals of the State, and not to a tribunal whose competency to pronounce an enlightened judgment upon the various and complex legal points that might arise, may be well questioned.

I am willing to confer upon the boards of supervisors of the several counties such powers of legislation as may be deemed proper and safe; but I cannot consent to invest them with authority to legislate upon a subject not involving interests of a local character, but which affect, vitally, the rights and interests, not only of the people of this State, but of the United States.

Mr. CRARY here interposed, and said

if he rightly understood the gentleman from Berrien, [Mr. WHIPPLE,] the original States must first give their consent before the articles of compact could be abrogated.

Mr. WHIPPLE, in reply, said that he must have been misapprehended by the gentleman from Calhoun. That misapprehension arose, probably, from the circumstance that in submitting his remarks, he had quoted from the Ordinance, which declared the five fundamental articles to be articles of compact between the original States and the people of the North West Territory. It is to be remembered that the Ordinance was adopted several years before the Constitution of the United States, and it had been held by high judicial authority that the consent of the Congress of the United States, instead of the consent of the original States, was necessary in order to repeal any of the articles of compact. The manner by which such repeal may be effected, is illustrated by the admission into the Union of the several States carved out of the North West Territory. The people, by virtue of the rights secured by the fifth article, formed constitutions, which being presented to Congress and found to be republican, those States were admitted into the Union on an equal footing with the original States. If any provisions of these several constitutions conflict with those of the Ordinance, the latter has been considered so far abrogated; the common consent required by the Ordinance being clearly implied, from the fact that the people of those States, one of the parties to the compact, in the most solemn form, propose an alteration, which is assented to by the other party, by accepting their constitution and admitting the States so formed into the Union.

Mr. CRARY admitted there may have been decisions of the character alluded to by the delegate from Berrien, [Mr. WHIPPLE,] but they were not applicable to the State of Michigan. They might apply to the States of Ohio, Indiana and Illinois, because those States were, by the acts authorizing them to become States, compelled to form their constitutions so that they should not be repugnant to the Ordinance of 1787. No such rule was prescribed to the State of Michigan. She formed her

Constitution without the express authority of Congress. The boundaries were prescribed by the act admitting her into the Union, and that act says that she "*shall have jurisdiction*" over the territory mentioned in the act. There is no qualification of this jurisdiction—no reservation in respect to the waters of the lakes, or the navigable rivers, and no compact in regard to either.

The Ordinance of 1787 had been made to serve many purposes of late. All kinds of construction had been put upon it by both courts and politicians. In its day, that Ordinance had performed good service, but it was when we were a territory; but, now that we were a State of the Union, admitted in every respect on a footing with the old States, it had ceased to be of binding obligation in Michigan. It might have force in Ohio, by reason of the language of the act authorizing that State to form a constitutional government; but even this he did not believe.

The navigable waters of Michigan are put upon the same footing as those of Massachusetts and New York. The Supreme court of the United States have decided in a case coming before them from Alabama, "*that the new States have the same rights, jurisdiction and sovereignty over navigable waters and the soil under them as the original States.*" This case came from a State that, on its admission into the Union, entered into a compact with the United States, that the navigable waters within the State should be common highways for the whole Union. If, then, Alabama has such power, what must be that of Michigan, where no such compact exists? He claimed for Michigan the jurisdiction over her navigable waters to the same extent that it was claimed and exercised by the old thirteen States. What was and what was not navigable was a question of fact, to be decided as cases might arise, as they had been decided in Pennsylvania. There it has been decided that if a river be navigable, it belongs to the State, and becomes a public highway for every body to pass over. It is not necessary that the tide should ebb and flow in a river to give the public a right to pass over it. If it be navigable, the public have an easement upon its waters.

In Michigan, many of the streams and the lakes had been meandered by the gen-

eral government in their survey of the public lands. Over them the jurisdiction of the United States had passed to this State. Our rights over them as a State were the same as the rights of the old States over their waters, similarly situated. Not one of the principles of the Ordinance of 1787 could control the State in relation to them. If it was in force in regard to the navigable waters, it must also be in force over the carrying places between the same; and if in force over the carrying places, then no toll could be taken on a canal around the Saut St. Mary, or the Rapids in the Grand River. The State, in granting a charter for a canal around the Saut, authorizing tolls, had exceeded her jurisdiction—had violated the Ordinance.

The waters of our great lakes, and the navigable waters running into them, were common highways, not by virtue of any ordinance, but by the principles of the common law of the whole country, which makes "all navigable waters public property, for the use of all the citizens." The State may improve them or authorize their improvement; but she can neither obstruct them nor authorize their obstruction.

The question has been asked, how do the United States have jurisdiction on the lakes? The answer is that she had none, until an act of Congress was passed on the subject. The Supreme Court of the United States, long ago, decided that they had no admiralty jurisdiction over the waters of the Mississippi; but at the same time intimated that Congress might give it to them. On the lakes, Congress has attempted to give it, but with such qualifications as cannot be found in any act pertaining to the waters of the Atlantic, where the tide ebbs and flows. The act shows that Congress legislated more with reference to the power to regulate commerce, than to that clause in the constitution of the United States giving to the federal courts admiralty and maritime jurisdiction. If the federal courts have this jurisdiction over western waters, it is an incidental power, arising out of the power to regulate commerce, and attaches itself to our navigable waters, by virtue of a law common to all the States.

Mr. WHIPPLE—I do not intend to discuss at length the questions suggested by the delegate from Calhoun, as they are

entirely foreign to the subject under consideration. I shall, therefore, confine my remarks to a correction of what I deem to be manifest errors in the speech to which we have just listened.

The maritime jurisdiction now exercised by the District Court of the United States, is derived from an act of Congress. It had been held by the Supreme Court of the United States, and by the Supreme Court of this State, that the maritime law was inapplicable to the great lakes. These decisions, and the vast increase of commerce upon the western waters, induced Congress to extend the principles of the maritime law to certain cases; and to this end, the District Courts of the United States in the western States were armed with the necessary powers to effectuate this object.

In his argument upon the jurisdiction which this State claims over its navigable rivers, the delegate from Calhoun asks with much emphasis, by what authority Congress interfered with the Hudson river. Without embarrassing the question before us by a discussion of the nature and extent of the jurisdiction which this State may lawfully claim over the rivers within its limits, I desire to answer the question propounded by the gentleman, by saying that the source of authority for removing obstructions in the Hudson river, is not to be found in any notion that the United States possesses jurisdiction over that river, but in that article of the Constitution by which Congress is authorized "to regulate commerce with foreign nations, and among the several States." Under this general grant of power, Congress has, from time to time, made large appropriations for the improvement of the navigation, not only of the Hudson, but of the Mississippi and other rivers.

Mr. BUSH—This discussion may be useful, but it strikes me that it has gone far beyond the present question.

It is well known that at almost every session the Legislature has granted permission to build dams. If the Legislature had not the power, the persons so applying ran the risk of it. The question is, which of the two bodies are the most fit and proper to grant the privilege. I think the board of supervisors the most proper. If the Legislature has not the power, neither

has the board; and that risk must be run by the person applying. I believe that the board will be the most competent to judge of the propriety of the application.

Mr. BACKUS—Mr. Chairman, my friend from Calhoun [Mr. CRARY] is wise beyond what is written; and it does not seem a wisdom derived from the sources of knowledge by which we obtain information as to the measure of our rights as citizens or States.

Whatever the judicial tribunals have determined with reference to the construction of the fundamental laws of the land, is the rule of action; but the gentleman seems to resolve everything into first principles; his arguments are founded in the abstract, without reference to the rule as recognized by our government. I admit that this discussion did not necessarily involve all these considerations, nor should I at this time have arisen, but for a misunderstanding of what I said as to the limit of the Ordinance and the influence it exerts upon the people of this State as a part of the North West Territory. It is irrepealable, imperishable and binding for all time to come, except as it is revoked by common consent.

The gentleman has told us about the old thirteen States, and the other five States in the North West Territory. What may be his notions in relation to the common consent, I am unable to state. His ideas are correct with regard to the admiralty jurisdiction, but he wonders how the government came to improve the Hudson river. I answer from the power in relation to commerce, and because that jurisdiction extends where the tide ebbs and flows; and also it comes within the scope of their powers as to Indian countries; that would give them the right.

But the question whether the rivers of this country are under our control, depends upon the question whether the Ordinance is of binding effect. And I do not wish to see committed to the board of supervisors a pretended power, which a regularly constituted judicial tribunal says we have not, and beyond the bounds that the judiciary has finally fixed as the limit of the power. I did not expect to be obliged to go into this lengthy discussion, but it is a matter of considerable importance.

The judicial tribunals of the country, the supreme courts, the local courts, exer-

cise a power that will control your right, and my right; we must all yield to the constitutional exercise of judicial power; it is the law of the land—it is the rule of action—it is the law that controls property.

Mr. CRARY (interposing)—Suppose we abolish courts?

Mr. BACKUS—Well, suppose we do? Courts have existed, and we must rely upon what they have done as the rule of right, if so absurd a proposition can be supposed. Why purport to give power which may bring us in conflict with the organic law, or against great and well settled principles, equal at least to our own constitution. The rule I take to be this: so far as the constitution of any State conflicts with the provisions of the Ordinance, to that extent the Ordinance is revoked, when approved by Congress. By common consent is meant the consent of the State by its people and Congress. Until that time, the rights under the Ordinance are vested in the citizens of all the States; and the citizens of this State, neither in their individual or aggregate capacity, have a right to interfere with it. I have no right to obstruct a highway; no more has a sovereign State, if it interferes with the rights of the citizens of all the States. That is the rule. And that it is the rule, I appeal to the judicial tribunals. When the gentleman says that this is not right, and if the courts give that opinion, it is not his opinion, it amounts to nothing. The question is, is it the rule that governs us? You cannot depart from it. You may make a provision and commit it to the board of supervisors, or the Legislature, and if the matter was brought to the test of a judicial interpretation, it might be decided that you had granted a power that it was incompetent for you to exercise. Congress has mended the streams. They had a right to do it—they are parties to the instrument.

The gentleman from Monroe asks how the people of the United States could make a contract with the old confederacy, which made it binding upon the people under the present constitution of the United States? This was the exercise of a power that originated with the whole of our republican government. They had the power. The legislative council called the people together to take the steps for our organization as a State; and the only question that

Congress could entertain was—was the constitution republican? And if republican, and was adopted by Congress, common consent was given. If the gentleman from Calhoun was as familiar with his books as he is with speech making, he would find that the rule controls him and me, and all the citizens of the State. The common consent is the consent of the State, organized from the territory under the Ordinance, and the people of the United States, through their organized governments.

The State Constitution and Judicial Decisions have limited the effect of these words; but by what remains we are bound. What has been decided?—that the people of the United States, residing in that portion of territory contemplated by the Ordinance, organizing a government which is republican, and making a provision that conflicts with the Ordinance in their constitution, which constitution must be accepted by the Congress of the United States—to that extent is the Ordinance revoked.

Otherwise you have no protection for the citizens of other States. It was a citizen of Massachusetts that asserted his rights in the case of *McConnel vs. Spooner, et al.* The court said he had rights, but they were not impaired. The same question is involved in the case of the Suspension Bridge at Wheeling; and I doubt not that the same results will follow when the facts are ascertained, as it has been intimated that the main question was, “does it impair the navigation of the Ohio?” The question before us is, however, whether we shall delegate this right to 40 or 50 bodies sitting in various counties of the State; and I would ask, can it safely be trusted to them. I think not, and I hope that the Convention will not sustain the proposition.

Mr. WILLIAMS disagreed with gentlemen as to the importance of this discussion, rambling as it had been. Many truths had been forcibly impressed on his mind, and no truth more pungently, than that the navigability of our rivers should have been kept inviolable by a provision of the Bill of Rights.

When the ordinance was passed, it seems, there were certain vital common law rights, certain great principles, which the framers of the Ordinance determined

should be secured to the future inhabitants of these North-Western States, against all contingencies—even kept sacred against the acts of the people themselves. Among these, the great common law right in regard to the navigability of rivers, was secured by the following clause: “The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways, and forever free, as well to the inhabitants of the said territory, as to the citizens of the United States, and those of any other States that may be admitted into the confederacy without any tax, impost, or duty therefor.” Thus was this great right, this great privilege, secured. When the Bill of Rights was under discussion, he was on the point of offering a provision embracing substantially this clause. We had now incorporated in the Bill of Rights many of the ideas and, he believed, some of the language of the Ordinance. He did not do it. But since he had listened to the assertions of the gentleman from Calhoun, [Mr. CARY,] assuming the futility of the Ordinance; and when he reflected that he had seen the property of his constituents wasted and scattered by thousands and tens of thousands, in consequence of illegal obstructions, from one end to the other of the navigable river on which they reside, and feeling as a citizen thus situated necessarily must, he now regretted that he had not before asked the adoption of the principle in question in the constitution.

He had noticed the connection of the words “mill dams,” in the section under discussion. He regarded it as so much verbiage. He thought of moving to strike it out, but on further reflection, deemed it of too little importance even to make that motion. And why? It is futile so far as it could affect navigable rivers. It can neither be in the power of supervisors nor Legislatures, nor even of this Convention, to impair a single right to the unimpeded use of the river. As one citizen, living on the banks of the St. Joseph, he would not care the snap of his finger whether you confided or not the power over mill dams to supervisors. He had the best evidence in the world that he need not. He had obtained judgment on the validity of the Ordinance, under a clear, distinct, emphatic charge of the Chief Justice, that the Ordi-

nance was paramount and supreme. This decision was only confirmatory of decisions in Ohio, Indiana, and the United States Circuit Courts. At the trial in question, the act of the Michigan Legislature authorizing the erection of the dam laid upon the table; but the opposing counsel did not even adduce it, knowing it was of no more force than blank paper. He did not believe that any intelligent counsel would set up as defence in a similar case, any act of our future Legislatures, though authorized by the constitution which this Convention frames; much less would he set up an act of the supervisors.

As one individual, he should prefer that the supervisors encroach on his rights as a citizen, rather than any other power or person should do it. If damaged, he would look personally to the most responsible, independent and honest of the board of supervisors for redress, instead, perhaps, of resorting to an irresponsible and dishonest defendant.

He would go farther, and say that the mill-dam legislation of which the evidence was scattered through our statutes, year after year, was all wholly idle, futile, useless, when affecting navigable streams. It was powder lost, time utterly wasted.

Whether a mill dam was authorized by the Legislature or not, it could not be legalized if on a navigable river; and if so erected, it was in defiance of a superior law. If a dam was needed above where a river was navigable, the riparian proprietors need have little occasion to resort to the Legislature. They could erect their own dams on their own domains, at their own peril.

Akin to this was another subject to which he would allude. The discussion had taken a wide range, and he must be pardoned. The relative rights of the future inhabitants of this State to waters navigable and waters not navigable, was of vast and incalculable importance. While on the one hand he would keep forever the great natural channels free, unimpeded, common highways, free as the God of Nature had made and the Ordinance of '87 had maintained them—he would, on the other hand, regulate the terms on which waters should be used above where they were navigable. The gentleman from Kent, [Mr. CHURCH,] the chairman of the

committee to which the subject was referred, would, he trusted, introduce a provision which should regulate this matter also. The rights of flowing unimproved and often valueless lands should be regulated in the Constitution. For himself he would allow no one man to usurp and hold, after all damages were provided, any small part of God's creation, to the detriment of the whole people. This Convention will forget and abandon its duty, if it neglects to determine constitutionally the relative rights not only of the present generation, but of posterity, on these great subjects. Vast and incalculable mischief has already arisen. Let us anticipate and prevent similar mischiefs for the future. But one-tenth of our territory is settled. Let the future occupants of all the unsettled portions of the State have their rights and duties secured and determined in advance. Our population may some day be millions, ten times as large as now. Our duty to them requires action.

On these accounts he had watched the discussion with interest. He deemed it a profitable one. There was no better time than now for such a discussion.

One word for his friend from Calhoun, [Mr. CRARY.] Since he [Mr. C.] had assumed such latitudinarian doctrines, he hoped he would excuse him if he should offer and urge a provision for rendering sacred the great common highways of navigable rivers. The gentleman from Calhoun might become a judge of the Supreme Court; and if the rights of his constituents were to be subject to his [Mr. C's] decisions, he should like to place restrictions on him in advance; especially as every bushel of wheat of every farmer in the county of St. Joseph might be affected several cents per bushel by his being debarred from the use of the St. Joseph river.

The question was taken on the motion of Mr. WALKER, and lost. The question was next taken on the motion of Mr. S. CLARK, to strike out "or mill dams," which was carried.

The question recurring on Mr. FRALICK's amendment,

On motion of Mr. COOK, the words "grant privileges to construct," were stricken out of section 8, and "authorizing the construction of," inserted.

The question then recurring upon Mr.

FRALICK's amendment, the committee refused to strike out.

On motion of Mr. McCLELLAND, section 8 was amended so that the first clause would read as follows: "The board of supervisors of all organized counties shall have the exclusive power to organize new townships."

Mr. BRITAIN offered the following as a substitute for section 8:

"The board of supervisors shall have power to lay out county roads, authorize and provide for the construction of bridges, and may change the boundaries of townships in their respective counties; but no such change shall take effect until approved by a majority of the votes cast upon that subject by the electors of each of the townships effected by the change, in such manner as shall be provided by the Legislature. The Legislature shall, by general laws, provide for the organization of any United States surveyed townships by the inhabitants thereof, whenever said township shall contain —— inhabitants; provided the township from which said township separates, shall contain —— inhabitants; and for the organization of any legally established counties by the inhabitants thereof, whenever said county shall contain —— inhabitants, provided the county from which it separates shall contain —— inhabitants."

Mr. WILLARD moved that the committee rise; which did not prevail.

Mr. FRALICK moved to insert after "counties," in 2d line, "but the expense of laying out, constructing, and the right of way of said roads shall in all cases be paid by the township in which said roads are laid out or constructed."

Which was not adopted.

On motion of Mr. STOREY, the committee rose, reported progress, and obtained leave to sit again.

On motion of Mr. McCLELLAND, the Convention adjourned.

Afternoon Session.

The Convention was called to order by the PRESIDENT.

On motion of Mr. COOK, the Convention resolved itself into committee of the whole on the general order, Mr. EATON in the chair.

The committee resumed the consideration of "Article —, County Officers and County Government."

The question being upon Mr. BRITAIN's substitute for section 8,

Mr. HANSCOM inquired if a substitute for the section was in order.

The CHAIR said that there was a proposition to substitute before the committee, therefore it was not in order.

Mr. HANSCOM—I have not participated in this discussion, but it occurs to me that the true place for this will be the Legislative Department; and at this stage of the proceedings I should like to get rid of the whole section, and then place in the Legislative Department something like the following substitute:

"The Legislature shall by general laws provide for the organization and division of townships and counties; for the construction of bridges and laying out of roads, and the erection of mill dams."

I am willing to trust to the wisdom of the Legislature to determine how the general laws shall be framed—whether they will confer it upon the persons who wish to make this organization, or to a local board. The effect of this section will be that, instead of the Legislature, we propose to set every county board legislating all over the State. While we are endeavoring to reduce expense we shall increase it to an alarming degree; and I believe that a simple proposition may be made to enable townships to organize, bridges to be made and mill dams erected, without the intervention of a county board. There may be danger if we make it imperative upon the county boards to accomplish these measures. They may be found to be not the proper tribunals.

I wish to get rid of the section, as I think the Legislative Department the proper article in which it ought to be placed.

Mr. BRITAIN—I entertained the same view as the gentleman from Oakland, but it occurred to me that there was a difficulty in getting it placed in the Legislative Department, as it was not before us, and that, by the amendment, it would be competent for the committee of revision to take it out of this article and insert it in that of the Legislative Department.

Mr. J. CLARK—The Legislative Department will be before us to-morrow.

Mr. BRITAIN—I was aware of that; but if you give the power to the board of supervisors to-day, it will be unlikely that you would give the power to the Legislature to-morrow; and to do so would be a waste of time.

The vote being taken, the motion to substitute was lost.

Mr. HANSCOM moved to strike out section 8, and insert the substitute he had offered.

Mr. EASTMAN moved to add to the substitute, "and for the removal of county sites."

The motion was lost.

Mr. CORNELL—The Legislature have the power now. Suppose we say they shall do it, and they don't; how shall we reach them? I know of no tribunal that can arraign them, except the ballot box. We may restrain, but we cannot compel them. Ever since the organization of the government, they have had the power and have not done it.

Mr. COOK moved to strike out of the substitute the words "and division." The committee refused to strike out.

The question was then taken on striking out the section, and the committee refused to strike out; so the substitute was lost.

Mr. CROUSE moved to add to section 8 as follows: "Whenever any board of supervisors shall have organized any new township, they shall cause to be filed a certificate of the fact, together with the name and boundaries of the same, in the office of the Secretary of State."

Which was lost.

Section 9 was read.

Mr. VAN VALKENBURGH moved to strike out "two thirds," and insert "a majority." Motion lost.

Mr. McLEOD moved to strike out section 9. Lost.

Sec. 10. The board of supervisors of any county may borrow or raise by tax _____ dollars, for constructing or repairing public buildings, highways or bridges; but no greater sum shall be borrowed or raised by tax for such purpose, in any one year, unless authorized by the vote of a majority of the electors of said county.

Mr. FRALICK offered the following substitute for section 10:

"Each board of supervisors may borrow when necessary for the erection of public

buildings of the county, or the building of bridges therein, any sum of money not exceeding fifteen thousand dollars in all, or may raise the same by a tax; but no board of supervisors shall borrow or raise by a tax for such purposes more than two thousand dollars in any one year, unless authorized by a vote of the majority of the electors of the county, as may be prescribed by law."

Mr. BUSH moved to strike out "borrow or," in first line of section 10.

Mr. B. said—if the board of supervisors are compelled to levy a tax to raise the money, they will be economical; but counties sometimes borrow money which they are unable to pay, and thus they burden the future. Any county that is old enough to build county buildings can raise it by taxation; but by borrowing they are or may be wasteful.

Mr. CHURCH—I apprehend that by the section some emergency must have been contemplated; for instance the building of a bridge. In my own county we have one of the largest bridges in the State: it was a work of State munificence, but now properly belongs to the county. All its repairs are made by the county, and we have once or twice been in danger of losing it by the floods and the ice. Should it be taken away, the amount of business is such that it must immediately be replaced by another. If the money has to be raised by a tax, it might embarrass the action of the board; and this may be true of all the counties—some sudden emergency may arise in each.

It is, I admit, a dangerous power to permit a board of supervisors to contract a loan, and therefore it is just and necessary that there should be a limit. I would therefore wish to see inserted "or by some other means," if the word "borrow" is stricken out, because it follows in the same section, that no greater sum shall be raised except by vote of the people. The section should give them power to raise a certain sum, I care not how much at once, and a larger sum, if the people approve the object; but I do not wish to see stricken out the word "borrow."

The motion was lost.

Mr. MOORE moved to fill the blank with "5000;" which was not agreed to.

Mr. RIX ROBINSON moved to fill the

blank with "2000;" which was negatived.

On motion of Mr. MORRISON, the blank was filled with "1000."

Mr. HASCALL moved to strike out "of," where it last occurs in last line of section 10, and insert "voting therefor in."

Which was disagreed to.

The question then recurring upon the substitute of Mr. FRALICK, and a division of the question being called for,

Mr. FRALICK said—This defines the amount of debt, and is, I think, preferable to the section. I hope that it will be adopted.

Mr. TIFFANY—The same objection exists to the substitute as to the section—it is impossible to tell whether two-thirds or one-third have voted upon the question. The borrowing is authorized by a majority of electors in the county. It does not say a majority of those who have voted. There is no means of telling: the language requires that a majority of all the electors of the county must have voted, and that fact cannot be well ascertained.

The substitute was lost.

Sec. 11. The board of supervisors shall fix and define the compensation of the various county officers in their respective counties, and the sum so fixed and defined shall be subject to no alteration by appeal or otherwise.

Mr. McLEOD moved to strike out all after "counties" of section 11.

Mr. CHAPEL—It has been the general practice of the Prosecuting Attorney and others to appeal, and the Judge has generally allowed more or less. We do not henceforth want an appeal from the people to a Judge who is independent of that people. The board of supervisors are the immediate representatives of the whole people of the county. If a person takes an office, he ought to be satisfied with the compensation without making an appeal. There is not a Prosecuting Attorney who does not take an appeal to get a larger salary. I have been familiar with this kind of thing myself.

Mr. CHURCH—Does the honorable gentleman mean to say that he has taken appeals?

Mr. CHAPEL—No sir, I have not; but I know it will hurt the prosecuting attorneys to deprive them of the right to appeal.

Mr. McLEOD—If it were not contrary to parliamentary usage, I should use strong language in reply to the gentleman from Macomb. His statement is, however, incorrect. There is a great deal of humbug in the attempt to fix a reproach upon lawyers. For my own part, I can testify that my salary as prosecuting attorney is merely nominal. I have taken no appeal; and I have sacrificed from \$1,000 to \$1,500 that I might have made by managing the cases for the defence. I know that, in deference to my duty, I have sacrificed my own interests and feelings; and I am surprised that the gentleman from Macomb should make such statements. I do not like to see this jealous feeling endeavored to be raised, as we can all turn round and abuse one another. I think that part should be stricken out, to prevent injustice being done by the board of supervisors. If they act unjustly, there should be an appeal from their decision.

Mr. MORRISON—The gentleman from Macomb says the judges are not responsible to the people. We propose to elect them; therefore they will be responsible; and the board of supervisors can alter the rates of compensation during the time the officers are serving; while in that case the person who was guaranteed a certain amount would have no appeal. I am in favor of giving the board as much power as they ought to have; but, as the judges will be responsible, I am in favor of striking out.

Mr. TIFFANY—I conceive that the boards of supervisors generally give a fair compensation, but there are times when they do not. You require that all the county officers shall keep their offices at the county seat. If they live in any part of the county, they must remove and live at the county seat; and they must, by the section as it stands, take what compensation the board of supervisors choose to give them. This is unjust. There is no injustice in leaving it to a tribunal after it has been fixed by a board of supervisors. If they give a proper sum, the party will be contented; if they do not, he should have an opportunity of securing a just reward for his services.

Mr. BUSH—When gentlemen take into consideration the fact that all the officers will be elected by the people, that the can-

didates are well acquainted with the county, its character for liberality and the duties required, no great hardships or inconvenience can be experienced if the board of supervisors are allowed to fix the salary without appeal.

I have been a looker on for some time, in the State; I have seen accounts presented that were manifestly unjust. I have seen them perfectly satisfied when their accounts were cut down twenty-five or thirty per cent. I have seen others dissatisfied, and take an appeal, and generally that appeal has been successful, at one time or other. When offices go begging in the counties it will be time enough to talk of appeals.

Mr. BEARDSLEY—I think it proper to keep this section as it is, for if I am correctly informed, there has scarcely ever been an appeal, without that appeal having been allowed. If a person is not willing to receive what the people are willing to give, let him remain at home as a private individual. It is unjust that he should accept an office and present an extravagant bill, and have the means of enforcing that by an appeal.

Mr. FRALICK—I do not think that the board should fix the compensation of the register of deeds or that of the county clerk, but that the compensation for those offices should be uniform throughout the State.

I am opposed to allowing any chance of appeals, and I will state the reasons, with all due deference to the bench. There have been numerous wrongs inflicted upon the people of this State by these appeals. It has cost the county of Wayne from 3,000 to \$5,000, and thereby justice has not been rendered to the people. There have been numerous expressions of the peoples' wishes, and the boards have endeavored to keep within reasonable limits, but it has been of no avail.

I have had the honor of being an auditor in the county of Wayne for three years I labored hard to do what was right, but found it impossible. We appointed a prosecuting attorney, with a salary of \$800; and thirty attorneys would have been glad to have given bonds to perform the duties of the office for that sum. We told the person that this was his salary, and he would have no more. What was the conse-

quence? He brought in a larger account; the board refused to audit it. He got a *mandamus*, and we procured counsel to argue the case in the Supreme Court. We found that there was a power behind the throne—the board was defeated; and we are now paying nearer \$1,200 than \$800.

In the winter of 1837 I brought in a bill to this effect—to cut off the power of appeal. It passed through the House, and was lost in the Senate by the influence of interested men. I believe the people are competent to fix the salaries of their officers; and I believe that it is right that the person should have his salary undiminished during the term for which he is appointed. He knows his duty—he knows his salary—and if extra duty is at any time performed, the board are always willing to allow a reasonable claim.

Mr. ROBERTSON—Gentlemen seem to imagine there is something very pure about the boards of supervisors of Michigan. They are but fallible men. They may do a great wrong, and if so, should there not be a remedy?

I might work for a certain time for the gentleman from Wayne, and he might give me what he thought proper and right; but does the law say that I shall abide by his arbitrary rules. No sir; it gives me a right to go into a court of justice, and prefer my claim.

This is the question—if the board of supervisors inflict a wrong shall we not have a remedy? Now I venture to say that there is not a gentleman in this Convention who, if he had a case in a justice's court which he thought was wrongfully decided, but would be glad of the privilege of an appeal. The gentleman from Wayne may have a case, even now, in which thousands are depending; a case of an appeal. Should he not go to the Supreme Court and have the highest tribunal of the land settle the question?

A singular argument has been used; that all appeals have been sustained by the courts. If that is the case, what does it prove? That the boards of supervisors, instead of being the pure, infallible men they have been represented, are very liable to be wrong. Sir, your judges are men to whom you are willing to entrust your dearest rights—they try citizens on the charge of murder and treason—they

decide on property to an immense amount; yet you are unwilling to trust them with the paltry charges of a constable's fees. I would appeal if we cannot draw a conclusion, that if appeals are always successful, the boards of supervisors are generally wrong. I believe in the county of Macomb there has been but one appeal by a Prosecuting Attorney, and that was a person who lives in the gentleman's own town, and was not successful. Some appeals have been taken by the County Clerks, some by Constables, some by the Sheriff, and only in three cases that were manifestly just. Some were allowed, some were not.

But a trial on an appeal is the same as any other trial. It is not taken by *ex parte* evidence; both sides are heard, and the judge is bound to decide according to law. And if so, is there any injustice in the procedure? The county clerk, register of deeds, and judge of probate should have a uniform salary all over the State. But I am in favor of striking out that portion that relates to appeal, as it is a principle that we do not apply elsewhere.

Mr. CORNELL—In my county the supervisors have concluded to let the officers have all they ask. If they refuse, they go to the judge, who decides without having the knowledge which guides the board of supervisors. I have been a supervisor for years. The salary is fixed, and when accepted, no honorable man should ask for more.

Mr. J. D. PIERCE moved to strike out "alteration by," in second line of section 11, and "or otherwise," in third line.

Pending which, on motion of Mr. J. CLARK, the committee rose, reported progress, and obtained leave to sit again.

On motion of Mr. SKINNER, the Convention adjourned.

THURSDAY, (27th day,) July 11.

The Convention met pursuant to adjournment, and was called to order by the PRESIDENT.

Prayer by the Rev. Mr. ATTERBURY.

PETITIONS.

By Mr. TIFFANY: of the members of the bar of Lenawee county, for a separate supreme court. Laid upon the table.

By Mr. HASCALL: of Charles E. Johnson and 51 others, citizens of Kalamazoo county, praying that the traffic in ardent spirits as a beverage be prohibited.

Referred to select committee upon that subject.

By Mr. WHITE: of Henry Wheelock and 69 others, of Lapeer county, for the equalization and collection of taxes.

Referred to the committee on finance and taxation.

By Mr. FRALICK: of H. Warner and 74 others, citizens of Wayne county, praying for the adoption in the constitution of an article providing for single senatorial and representative districts.

Laid upon the table.

RESOLUTIONS.

Mr. McCLELLAND proposed to amend the thirteenth rule, by adding the following words: "which shall be the section or article under consideration, as the Convention may direct."

Mr. McC. said there may be in some of the articles fifteen or twenty sections, each of which may embrace different propositions, on which much discussion may be had. The Convention may wish to cut off discussion on one of these, but not the other; under the present rule the previous question can only apply to the article itself. Gentlemen may get impatient and sustain the previous question on the article, before the whole of the sections are perfected. To obviate the difficulty that may arise, he proposed that the previous question may be moved on a section or the article, at the option of the mover.

Mr. N. PIERCE was apprehensive that it would open the door, and destroy the efficacy of the previous question. He would restrict it to the section; it might be improper to cut off discussion on the whole article.

Mr. McCLELLAND explained; it was his object to bring the previous question to bear on a section. Under the present rule, it could only apply to the article.

Mr. HANSCOM supported the amendment. It could do no harm, but might be useful in cutting off discussion on a single section, leaving the other sections open to amendment and discussion.

Mr. BRITAIN said the gentleman from Calhoun was right as to the practice in the Michigan Legislature; though the practice

of the Convention had been different. The amendment, if adopted, would leave it at the option of a member to close debate on a section, and prevent members from offering amendments which they considered important. A large part of our discussion, said Mr. B., arises on amendments offered to amendments, the Convention not being able to get a vote on the amendment itself. If this proposition be adopted, it will allow the Convention to get rid of an amendment to an amendment, and its discussion; but he would appeal to the Convention to consider whether it would be proper to cut off members from offering further amendments which they may have matured, but which they have not had an opportunity of offering.

Mr. McCLELLAND called the previous question, which was sustained.

The main question was put, and the amendment to the rule was adopted—yeas 70, nays 22.

Mr. COOK offered the following:

Resolved, That the committee on schedule be instructed to fix in their report the terms of the first officers elected under the revised Constitution, so that hereafter the election of all State and county officers shall take place upon the even numbered years, excepting such as may be made elective at the spring elections.

Mr. C. said he was not desirous of having action on the resolution this morning. He wished to call the attention of members to the subject. He supposed the provision for biennial sessions would be adopted.

By providing that the election of State and county officers should be held the same year the members of the Legislature were elected, an election might be dispensed with.

The resolution was laid upon the table.

Mr. WILLIAMS proposed the following:

Resolved, That the committee on miscellaneous provisions be instructed to inquire into the expediency of inserting a provision in the new Constitution as follows: "The navigable waters of this State shall be common highways, and forever free to the inhabitants of this State and the United States."

Mr. N. PIERCE would like to know the object the gentleman had in view. Would

it not prevent the State using the navigable waters, or what are considered such? He (Mr. P.) was apprehensive it would abridge the rights of the citizens and lead to difficulty.

Mr. WILLIAMS—Had the gentleman from Calhoun [Mr. N. PIERCE,] been in his seat yesterday, he would have heard fully the reasons which prompted the introduction of this resolution.

His object was to define and not abridge rights. He thought no difficulty would arise as to what was considered navigability. He believed a principle ran through the decisions, that navigability was a fact to be tried and tested by evidence, and not fixed by any arbitrary rules.

Whether we adopt this provision or not, we must abide by the principle it contains, for the vital words are a mere abstract from the Ordinance of 1787. He offered the resolution to obviate future difficulties. He lived on the banks of the St. Joseph. One of his colleagues did. The other was a farmer, the products of whose industry had been transported on that river. But they had all seen obstructions erected from one end to the other of the river, especially in the adjacent State of Indiana, and our property dashed and scattered on the stream, and borne out upon the bosom of Lake Michigan. Practically there had been little redress, and he had never known damages recovered to any respectable amount, except in a single case between himself and others, and his friend from Berrien [Mr. BEESON] and others, to which allusion had heretofore been made. He sympathized with his friend, and regretted that the judgement had not been recovered against a less clever man. As long as these obstacles were interposed in defiance of law and justice, he saw no reason why a prohibition still more explicit should not be interposed.

Mr. MORRISON moved to lay the same upon the table; which did not prevail.

The resolution was then adopted.

On motion of Mr. McCLELLAND, the Convention resolved itself into committee of the whole on the general order, Mr. EASTON in the chair.

The committee resumed the consideration of "Article —, County Officers and County Government."

The question being upon Mr. J. D.

PIERCE's motion to strike out "no alteration," in second line of section 11, and "or otherwise," in third line, the same prevailed.

The question then recurring upon Mr. McLEOD's motion to strike out all after "counties," in second line,

Mr. SULLIVAN remarked that when an amendment would be in order, he would propose to amend by inserting after the word "counties," in the second line, the words "subject to appeal to the circuit court," striking out the balance of the section. The section proposed to confer upon the board of supervisors extraordinary powers. It proposed to make them a tribunal of last resort in all cases where county officers had claims for services against the county. The decision of no other tribunal in reference to claims was in all cases final. Cases might be appealed from a justice's court to the county court; they could be removed from the county to the circuit, from the circuit to the supreme court of the State; and in certain cases from the supreme court of the State to the supreme court of the United States. But the decision of a board of supervisors it was proposed to place beyond the reach of appeal. He did not believe it was proper or just. It was a matter in which he had not the slightest personal concern. He had had occasion to present claims to the board of supervisors. He had never appealed from their decisions. He had never complained of them. He had very little expectation that he should ever again present a claim to them for allowance; and if he did, their decision must not only be wrong, but palpably so, before he should appeal. He felt no personal interest, therefore, in the subject; still he was opposed to the section, and the various amendments taking away the right of appeal. Upon what ground are such extravagant powers to be committed to a board of supervisors? How are they constituted that they should be more intelligent and more pure and immaculate than any other tribunal of the State? They consist generally, it is true, of intelligent and upright men; but surely it is no treason to say that they are subject to the common weaknesses and infirmities of humanity—that partiality, prejudice, ambition and avarice operate upon their minds as they do upon the minds

of others. If there is any thing in their situation adapted to excite those feelings, it will produce its common effects.

Now, sir, in looking at the constitution of that body, it may naturally strike every one that, in the settlement of claims, it is partial and interested. It is composed of a part of the tax payers of the county—claims are presented for adjudication to debtors, and their decision is to be final. The bare statement of the proposition is a condemnation of it. It shocks every idea of justice.

The number of the body, consisting as it does of from fifteen to twenty men, prevents any full examination of claims. A claim must be considerable, or its amount will be used up in the discussion of it. The supervisors, aware of that fact, acquire a habit of giving to the claims of county officers and others but a slight examination. Again, to fix the claims of county officers properly, it is necessary to inquire into facts—the services rendered, and the value of them. But the supervisors have no power to compel the attendance of witnesses, or to swear them, or any other of the ordinary powers for the investigation and ascertainment of truth. Should the decision of a board, thus limited in its power to ascertain facts, thus necessarily restricted in the discussion of them, be final? Again, the board is made up of politicians—of persons anxious for political preferment. Their great object is to obtain popularity by reducing taxes—they are under very strong temptations to reject claims without reference to their justice. Again, they are under strong inducements to log-rolling, a species of employment not very productive of the purity of any tribunal. Each supervisor is anxious to reduce the assessment of his own township as low as possible; and that has a tendency to lead to combinations that will affect to some extent all the transactions of the board. Each supervisor has claims to present for citizens of his own township, which he is desirous should pass. While, therefore, the general tendency of the board will be to cut down just claims, it will often happen that by log-rolling efforts, extravagant claims will be allowed. Such is the character and situation and constituent parts of the tribunal that it is proposed to invest with the power of final adjudication, beyond the power

of appeal, of all claims in favor of county officers. Now, what is the character of the claims they examine? Most of them are presented by legal officers. The proper settlement of them involves a knowledge of the laws, and the proper mode of construing them. And yet, supervisors are elected without any reference to their qualifications in this respect. They are chosen by towns, almost entirely with a view to their qualifications as assessors. Let an appeal be allowed to the Circuit Court, and you have a tribunal well acquainted with the laws—perfectly impartial, and possessing the facilities for the ascertainment of facts, to review the decisions of the board of supervisors. It has been urged that no appeal should be allowed from the decisions of the board of supervisors, for the extraordinary reason that the Circuit Court has frequently reversed their opinions. Could a stronger argument against their infallibility be offered? Could a more cogent reason be presented for the allowance of appeals? Which is most likely to be right, the supervisors or the court? Which tribunal is generally most enlightened—most impartial—most familiar with the laws? It is no disparagement to the board, to say that the question admits of only one answer. He had as much respect for the board of supervisors as some who were more profuse in their encomiums; but he did not believe they would covet the responsibility attempted to be cast upon them, and he did not believe it was just to impose it. He believed if the voice of the supervisors throughout the State could be heard upon this subject, it would be in favor of the right of appeal.

Mr. HASCALL—Our Governor, Secretary of State and Judges have their salaries fixed. They accept their offices with a full knowledge of what they will receive; they know beforehand what compensation to expect. Would it be just that the officers of this House, knowing what they would receive, should apply to the tribunals of the State for further compensation? I think not. Well, sir, the board of supervisors have the same relation to the county that the Legislature has to the State. They are the proper officers to fix a compensation for the servants of the county. They do so, and the incumbent knows what he is to expect.

Is it just that a person should appeal from a board of supervisors to a court which knows nothing of the circumstances of the case, or the ability of the county to pay exorbitant charges? It is unjust; it is against principle so to do. If I hire a man at ten dollars per month, when I pay him, he has all that he ought to expect; he has no right to go before a court to compel me to pay more. Common sense forbids the supposition.

Mr. MOORE had hoped yesterday that the discussion on this question was through. The only difficulty, perhaps, was that the provision was not broad enough or strong enough, or the Convention would put it through. Whether there should be an appeal or not, from the board of supervisors, was a question he considered settled. He thought the board the best tribunal to settle those matters. It is usually composed of fifteen or twenty of the best men of a county; they are elected for this purpose, and every question brought before them would be settled justly.

To appeal from a jury of such comprehension, who have all the facts before them, and take it to a single judge, on *ex parte* evidence, would be improper. He [Mr. M.] saw no impropriety in the board settling every claim or matter belonging to the county. He would allow them to settle and fix both the salaries and fees of officers in a county. A section of that kind, he believed, would pass without opposition.

Mr. BUTTERFIELD, if he understood the amendments offered, believed that none of them proposed to fix the compensation before the election of officers. He believed such an amendment to be necessary, and when in order would propose an amendment of that character.

Mr. GOODWIN would ask a question. Suppose a board of supervisors should fix the salary of a prosecuting attorney, and he should apply to the board for an order for his pay, and some of the supervisors should suppose he had been negligent or unskillful in performing the duties of his office, and should say we will allow you one-half. The question he [Mr. G.] would ask was—how they would dispose of a case of this kind without appeal?

Another question; he would ask the gentleman from Kalamazoo if the courts of

that county were in the habit of hearing and deciding cases on *ex parte* evidence?

Mr. HASCALL—The individual might apply for a writ of *mandamus* to compel them; he would not allow him to resort to appeal.

Mr. WALKER—Mr. Chairman: as every one seems disposed to add his mite to the construction of this section, I will read a substitute I propose to offer. [Mr. W. read:] "The board of supervisors shall have the exclusive power to prescribe and fix the compensation for all services rendered for, and adjust all claims against their respective counties."

What has been attempted in this bill? What is asked for by the people? It is, that we shall confer local legislation on the respective boards of supervisors. Now, sir, what is the nature of the provision intended to be introduced? It is to allow the board of supervisors the exercise of legislative powers on certain matters in the county, as the Legislature exercises it in the State at large. Now our State Legislature fixes the salaries as much as they can, beforehand. The Legislature have always acted without appeal as to what should be allowed. It seems absurd that an appeal should be had from the decision of the Legislature, except that appeal which a man has to a succeeding Legislature. The same principle should be carried out. The salaries of the officers should be fixed as far as possible. The supervisors should also adjust the claims against the county, without appeal. An individual who supposed a board had done wrong would have the right to present his claim again to the next board.

The amendment offered by Mr. McLEOD was negatived.

Mr. BUSH offered the following substitute for section 11: "The board of supervisors shall have the power to settle all claims for services rendered their respective counties; and from their decision there shall be no appeal."

Mr. WALKER offered the amendment he had previously read as a substitute.

Mr. CRARY did not think the section, as reported, broad enough. It only applies to county officers. There are justices of the peace who are both township and county officers; they are elected in the township, but their jurisdiction extends over

the county. There are constables—about half the claims come from those officers for services rendered to the county. He wished some member would offer an amendment to embrace that class of cases. On claims of physicians, an appeal to the court might be had. The difficulty was not in the fact of the appeal itself, but to the leaving it to the judge himself. The appeal is to the court, and the decision is that the judge is the arbiter of the court. If a jury could be had it might be different.

Mr. BUSH—The substitute I have offered covers every claim that can by any possibility come against a county.

Mr. McCLELLAND—I shall go for no appeal, provided one provision is put in the section: if not, I shall go against it. I suppose it is proposed that a compensation shall be fixed before election, and that it shall not be diminished during the term for which the officer is elected. With regard to claims of a different character, you cannot anticipate beforehand. I would not have the board fix the fees of the Judge of Probate; but for the officers of the county, the supervisors are the best judges of the compensation for their services; but let it be fixed beforehand.

Mr. CORNELL—I have an amendment if I ever shall get a chance to offer it, for fixing the salaries of the county officers, and leaving the board to adjust the other claims for services against the county. Compensation should be fixed before the election of officers, and no appeal should be allowed.

Mr. J. D. PIERCE believed the substitute offered by Mr. BUSH covered the whole ground. You may as well allow our Governor and State officers to appeal from the decision of the Legislature. More iniquity has been practiced in the State under appeals than from any other cause. He hoped it would be adopted, whatever other amendments might be added.

Mr. TIFFANY read an amendment, which he proposed to offer when in order.

Mr. VAN VALKENBURGH hoped the amendment would not prevail. He had listened with a great deal of interest to the discussion. It aims at the abolishing of a long established principle; and (said Mr. Van V.) I have not heard an argument advanced that convinces me that it is right,

We have been told that the boards are composed of good men, who have to pay the taxes. We should have been told that they are interested men—that they are tax payers. They are not only tax payers, but have popularity to gain in the townships. I say they are interested. My friend seems horror stricken at the thought of appealing from the decision of a board of supervisors to a single judge. We do not propose to appeal to a single judge; but to a man conversant with the law. In all cases there should be an appeal from a board of supervisors. I trust that they will not strike at the principle that there should always be an appeal from a board that is interested.

It is no objection to the system that it has been abused. Abuses have taken place and will take place under any system; but I hope gentlemen will be influenced by the principle which is right.

Mr. WOODMAN said—Mr. Chairman, I would say one word. I have taken no part in the debate on this question, and I had hoped that it was closed.

If my colleague [Mr. VAN VALKENBURGH] would consult the interests and feelings of his constituents, I believe he would go for it. If he thinks I am mistaken in regard to the views and feelings of the people of Oakland county, he had better consult the letter he received.

Gentlemen have told their stories in regard to those appeals; I now want to tell mine. A certain person appealed from the board of supervisors in my county, and the result was that the judge allowed him some twenty-seven dollars more than he asked.

If there is not a feeling in Oakland county against allowing appeals from the board of supervisors, I do not understand it; though I have not been favored with a letter from my constituents on that subject.

On motion of Mr. J. D. PIERCE, the substitute offered by Mr. WALKER was amended by adding “and the sum so fixed and defined shall be subject to no appeal.”

The question was taken on Mr. WALKER's substitute as amended, and carried.

The motion to strike out the section and insert the substitute prevailed.

Mr. ROBERTSON moved to amend, as follows: Add to end of section, “and the

compensation of officers shall in all cases be fixed before their election, and shall not be diminished during their terms of office.”

Mr. W. ADAMS moved to amend the amendment, by striking out “diminished,” and inserting “altered.” Which was disagreed to.

Mr. ROBERTSON hoped the amendment he had offered would be adopted. The amount of compensation should be fixed before the election. They should know what they have to receive. If the services are worth \$800, and the board think they can be done for \$150, I am willing that they should try it; but I would not give the board power to diminish the salary after a person has gone into office. The word “altered” was objectionable; the duties of the office may be increased ten-fold, particularly in the case of prosecuting attorney. During one year there may not be much business; in the next he may be much engaged in suppressing crime. In such case the board would be willing to allow further compensation.

Mr. CORNELL said—My young friend from Macomb, for whom I have a great deal of esteem, has made a proposition to meet what appears to me to be an impossible case. To diminish, is a thing I never heard of.

Mr. WALKER—If the amount each constable shall receive, and the amount the sheriff shall receive, be fixed before they are elected, the board ought to have more omniscience than any body of men he ever knew.

Mr. ROBERTSON—You are not to impugn the high standing of a board of supervisors, but the Legislature is to be bound with all sorts of strong cords; but; like the Legislature, they will be subject to the same passions and failings. As to the question that the pay cannot be fixed before hand, it always has been. Fees are fixed, and they ought to be fixed in advance as well as salaries.

The amendment was negatived.

Sec. 12. The Legislature may hereafter confer upon the board of supervisors of the several counties of the State, such further powers of local legislation and administration as they may deem proper.

Mr. BAGG offered the following as a substitute for the section:

"The several boards of supervisors of this State may hereafter confer upon the Legislature of this State such powers of local and general legislation and administration as they may deem proper."

Mr. BAGG would assure gentlemen that he was serious in offering this substitute. The legal gentleman from Calhoun [Mr. CRARY] told us yesterday, that he was more for a town than he was for a county, and several gentlemen concurred with him. We are here, the majesty of the people, defining the powers of legislation. We are to have two legislative bodies. I wish to know which is to be uppermost? These boards of supervisors are made the supreme court of the State. I wish to know if they are not also to be placed above the Legislature. You give them supreme judicial power—why not give them supreme legislative power?

Mr. B. said—I put this out as a feeler. There seems to be a disposition in the whole land to resolve us into our original elements. There is a disposition to break up the bonds of democracy. He had supposed that there were eighty delegates here prepared to sustain it, and that they would make a constitution to sustain it. I hope (said Mr. B.) to have the support of the gentleman from Calhoun. He says he is more for a town than a county—then he must go for the supervisors having the greatest legislative power. The legislative article comes in to-morrow—the judiciary next. They will all be dovetailed and put in with this principle. Sir, I am against all this, and I wish to set myself right. We are about to destroy the organic law of the land, which will in twelve months bring us into an inglorious minority. I wash my hands of it.

A division was called for, and the question being on striking out section 12, the committee refused to strike out; so the substitute was lost.

Mr. EASTMAN offered the following amendment: amend section 9, by adding after the word "seat," in first line, the words "except in the county of Ottawa."

Mr. E. said—It is with respectful deference to the wisdom, sound judgment, and great experience of the members of this committee that I offer this singular amendment. After witnessing the votes upon this section in committee yesterday, I have

but little hope, little expectation, that it will be favorably entertained—that it will prevail; indeed, sir, I could not well reconcile my own vote in its favor. Were we acting as a legislative body, carrying out the minute details of law, I might then hope and expect that this amendment would prevail; but as our business is to fix the general fundamental principles as the guide to future legislation, I can scarcely expect it to be adopted. I offer it for the purpose of drawing the attention of the committee to the bearing of the section, as reported by the standing committee, not only upon the county of Ottawa, but also to its bearing upon several other organized counties in the State, as well as its obvious effect upon the new counties after they shall have become organized with county seats—established—which is, sir, virtually to fix permanently and forever those sites, however far aside they may have been thus early located from the future convenience of a majority of the people of the county. It would be utterly impossible under this constitutional restriction, ever to remove a county seat. Where, like rays radiating from a centre, the influence of those who hold office, who necessarily reside there, together with the power exerted by the business influences that naturally spring up, in and around these points, with the jealousies that never fail to be stirred up in the several localities claiming it, around the central and proper point for it, certainly would render any removal hopeless. Seven-eighths of the inhabitants must think its present location an evil—must favor its removal—in order to secure a two-thirds vote of the people, or a majority vote of the board of supervisors, ever to designate "the place to which it is proposed to be removed." Under such influences, sir, how will it be in the new counties yet to be organized? How has it been heretofore, in regard to their first settlements, as in Ottawa, wholly on one side, or perhaps upon one extreme corner, or one end of a very long county? As soon as organization takes place, the county seat must be established—and where is it usually established? Near the geographical centre, where it will prospectively convene the whole county? No, sir, it is placed in the *then settlement*, to accommodate the people of the county at the time, and far away from the central locality,

where it would convene a very large majority of the county when fully settled. Under this constitutional restriction, sir, I can easily see that any county seat thus sectionally located, must remain unmoved, perhaps forever; until at least seven-eighths of the inhabitants view its situation as adverse to their individual interests, inasmuch as a large number of those who view its removal to be just and proper, yet they will be brought under such influences as will cause them to *not act*, or to act contrary to their interest in this matter. We are engaged in forming a constitution that is designed to remain unaltered for fifteen or twenty years. I do therefore hope that this section, which as it now stands *must* operate so injuriously upon many counties now organized, with their early established and one-sided county sites, as also upon most of the new ones yet to be admitted to organization during this period. I say, sir, I do hope that it will receive *some modification*. I will withdraw the amendment, and if in order, I would offer a substitute for section nine, which I believe would do away with many of the objections I entertain to this section, as it came from the hands of the standing committee.

Mr. E. then, on request of several members, read the substitute, as follows:

"The board of supervisors may determine when the county seat, not located centrally in the county, ought to be removed, and notify the Governor of such determination; whose duty it shall be to appoint forthwith three competent and disinterested persons, not residents of said county, to relocate the same as near the geographical centre as may be found practicable and convenient for all the inhabitants thereof; which relocation shall be approved or rejected by a major vote of the electors of said county, given at the next general election held thereafter."

A question of order being raised, the motion was decided out of order; the committee having previously refused to strike out section 9.

On motion of Mr. COOK, the committee rose, and through their chairman reported back the article entitled "County Officers and County Government," with various amendments, in which the concurrence of the Convention was asked.

The committee was discharged from the further consideration of the article.

On motion of Mr. COOK, it was laid upon the table and ordered printed with amendments.

Mr. McCLELLAND called from the table the article entitled "Legislative Department."

The question being upon concurring with the amendments made in committee of the whole, and the first amendment being under consideration,

Mr. McCLELLAND moved further to amend by striking out the word "one," and inserting the words "not more than three."

A division of the question being called, Mr. FRALICK said he had supposed that the question was settled; that the Convention had decided upon having single Senatorial districts. As far as he had had an opportunity of ascertaining the wishes of the people, they were in favor of single districts.

Mr. WHITE said that previous to adjournment he had entertained doubts respecting the propriety of establishing single Senatorial districts; but he had found in traveling home, there was no difference of opinion among the people on the subject. It was no party question. The people have settled down in the opinion that there should be single districts for Senators as well as Representatives. He was compelled, therefore, from a sense of duty, to vote against striking out.

Mr. WILLIAMS would beg to say in the county he in part represented, the people were unanimously in favor of single districts, both for Representatives and Senators.

Mr. J. CLARK had always supposed that the object in creating a Senate was to make it a conservative body, so that it should operate as a check on the hasty and immature legislation of the more popular branch. That object was proposed to be accomplished by electing the members for a longer time, and making them the representatives of more general interests. By making the Senate a more numerous body, by electing in single districts and for a shorter period, the object for which the Senate was created would be lost. He [Mr. C.] was opposed to increasing the number of Senators; he believed that the object would be better secured by electing twenty-four, or even a less number, than

by thirty-two, as proposed in the article. We have a numerous body provided for, in the shape of representatives, by which every portion of a county will be represented. Senators ought to be elected to represent more general interests. Single districts would operate to destroy the object in view in creating a Senate.

I, (said Mr. C.,) should be sorry to make the body too democratic. I agree with my friend from Wayne, [Mr. BAGG,] that we should always be for that which will produce the greatest amount of good, and strengthen the democratic party. For these reasons I am in favor of the original proposition.

Mr. WELLS—I have attended to the remarks of my friend from St. Clair. In nine cases out of ten, in the doings in this Convention, I have coincided in his views. In this case I am afraid he is wrong—entirely wrong. I am aware that if any part of the delegation from Kalamazoo would strike at the single district system, the people would strike him at the ballot-box so cold, so dead, that the galvanism of a convention, or the wild cat operations of a mass meeting, would never resuscitate him.

Mr. BACKUS said if he understood the opinions of the people, it was their wish to elect by single districts; and to this he saw no objection. Does it strip the Senate of its conservative character? Who elect the Senators? The same who vote for Representatives—whether they vote on a ratio of five thousand or one hundred thousand, it is the same constituency. It is capable of being apportioned into single districts; it is the desire of the people that that should be the result; and unless substantial reasons could be shown to the contrary, the public should be gratified in their desire. He [Mr. B.] could see much benefit that would accrue from gratifying the public desire. It would bring the representative, whether in the House or the Senate, more immediately in connection with his constituents.

They would have a better opportunity of knowing his capacity for representing them. As an advisory power to the executive, they have nothing to do—with appointments they have nothing to do—that is given to the constituency; and are you afraid to allow persons to make our laws,

when you give them power to elect our judges and executive officers? I see no reason why it should be struck out.

Mr. BRITAIN said he had offered on a former occasion an amendment providing for double districts, and for electing Senators from each half of the district alternately; that would have preserved the conservative character of the Senate, as desired by the friends of double districts, and secured to each half its Senator as effectually as single districts. That amendment was not sustained by the Convention. He had therefore no resource but to fall back on single districts.

Mr. S. CLARK said the provision for single districts was inserted on his motion. He had seen no reason to change the views he entertained of single districts. He believed it to be right and democratic. He believed the interests of the democratic party would be best subserved by acting always right and never wrong. Single districts [said Mr. C.] with us are popular; they bring down power to the people; and I believe in this State it will be wisely administered.

Mr. BAGG—I see an interesting time coming. Our whig and free soil friends anticipate a good time, and it will come. Those gentleman have been still; and why? Because democrats are doing the business themselves. We are getting into the meshes of the net while playing at blind Harry—but now they are afraid we cannot any longer be hoodwinked, and that the double system will prevail; hence you see the gentleman with the double principle, who represents the triangle, begins to have apprehensions that the double district system will go.

Mr. COOK read in answer to the statements of Mr. BAGG, an article from the Free Press of April last, just previous to the election of delegates, containing propositions of reform, in which they strongly urge the adoption of biennial sessions and the single district system, and conclude by saying “we shall consider the Convention a failure if these propositions are not adopted.”

Mr. C. said—I claim that this is a democratic measure, and I would not allow our whig friends to take the lead in it. In the county of Hillsdale every man is in favor of it. Nineteen out of every twenty of

the people of the State would vote for single districts.

Mr. WHITE said, the county I in part represent, is a democratic county. I was sent here by democratic votes, and I consider myself virtually instructed by my county. I have said that I doubt the policy of the measure, but I support it from a sense of duty to my constituents, and not as a whig.

Mr. BAGG—I am sorry to find any delegate founding an argument upon something they have read in a newspaper, and especially the Free Press. It is said to be the most intelligent paper in the State. Sir, their intelligence is only equalled by their benevolence.

While we were the banner State, the democracy were assailed by coons, log cabins and cider barrels; they have stood the shot, and yet remain the banner State. Yet the Free Press, in a fit of cold ague, published that miserable article. When I was a boy I believed that every thing printed was true; but since that time I have not believed any such thing.

How long was the Free Press against banks? How is it now? Do they not vacillate and pander to banks? Newspapers pander to politicians. One set, like Jackson, make public sentiment; another, like Van Buren, mouse after it. Those men vacillate too much; what one year they say are the unalterable, cardinal principles of democracy, the next year they abandon. I care nothing whatever for the Free Press; I judge for myself. I know, sir, the adoption of this measure will sever the masses and break up the democratic party. I know that the indomitable masses, when taken together, like Æsop's bundle of sticks, cannot be broken; they can beat both coons and log cabins—nothing can withstand them.

It has been said, "as the township of Hamtramck goes, so goes the county of Wayne; and as the county of Wayne goes, so goes the State." So established is this fact, that in '41 they robbed the Hamtramck ballot box. By that means they defeated the will of the people of that township, and not of that only, but of the people of Wayne county and of the whole State; and by that means maintained an ascendancy for another year. Hamtramck gives a majority of 500 votes; they will

have a representative, and 150 votes will be lost to the county. In the first ward of the city, the case will be the same. Since 1840, not a whig member has graced the halls of legislation. The gentleman only, [Mr. BACKUS,] belonging to that party, is here from the county of Wayne; and his peculiar popularity and talents brought him here. But adopt single districts, and how will the county of Wayne stand? We all know that the very first moment you get into this system, one-half will come here whigs. The case will be the same in Oakland and several other counties. Is it right and proper, standing in the relation as 80 to 20, to make a law, and say the masses shall not have their rights? to bind them hand and foot, and not have the advantage of union?

Mr. FRALICK had hoped no party feeling would have been brought in here. He had supposed they had met to make a constitution for the people, not for the democratic or whig or free soil party. From the gentleman's speech, one would suppose he was in some ward caucus, making a speech for some particular purpose before an election.

Mr. F. concurred in the views quoted from the Free Press; it was the view entertained by the people of Wayne county. He was disposed to make a constitution right and proper, and what would suit the people; he did not care about its effects on one party or the other. The electors will have the matter more under their immediate control; they can judge of the qualifications of a candidate. In a large district they are nominated at a caucus, we know how—they are elected on a party ticket. If the democratic party be lessened, it will be stronger. He wished no man to go to the Legislature as a representative of a particular class of politicians, but by the voice of the people.

On motion of Mr. STOREY, the Convention adjourned.

Afternoon Session.

The Convention was called to order by the PRESIDENT.

The consideration of the article entitled "Legislative Department" was resumed; and the question being on striking out the

word "one," as proposed by Mr. McCLELLAND,

Mr. J. BARTOW said, before the vote was taken, he wished to express his views on the subject. He was in favor of striking out "one," and inserting "three." He believed, if we were to have a Senate at all, and preserve its identity, the members should be elected in a different manner from the representatives. If the same mode is adopted, it does away with the Senate as a Senate, and makes it an adjunct of the House. They will be elected by the same men, come at the same time, and will form but one body, though they sit in different rooms. If it be the object to have but one body, we may as well do away with the idea of having a Senate. It is but a popular body, having no more influence over the popular will than the House. If they are going to change the form of government, and this department can be done away with, say so, and abolish it. Do not do it indirectly, and leave it merely in name. I am willing [said Mr. B.] to assume that no republic can long exist without the three departments; that none ever did long exist without some check on the popular part. All history and experience prove it. I am not prepared for it, and shall not vote for the change in the bill.

If the Senate is formed into single districts, and the Senators are to be elected the same as the Representatives, I shall go for abolishing it in name, as it will be in fact, and try the experiment of carrying on a republican government with one branch only.

Mr. CRARY took the chair at the request of the PRESIDENT.

Mr. HANSCOM said—I wish to state briefly the reasons for the final vote I shall cast on this matter. I regard the action we are about taking on the legislative department as fraught with much importance to the State, and a young member of this Convention may wish to have his reasons go with his vote. I will state that I respect the public will. I believe we are bound by it when fully expressed; but, sir, there is another will, sometimes called the public will, so far from being respected, ought to be resisted by every person seeking the public good.

Look at our national history, and you

will see the necessity of resisting this popular clamor of the public mind. How was it during the time of General Jackson? What was the effect of his resistance to public opinion? It was to guard the people against an institution dangerous to the public, and which subsequent events have confirmed. Take the last fifteen years in the history of our own State. Had our public men resisted the public will, benefits would have accrued to us very materially affecting us at this time as a State. Refer to our five million loan and to our wild cat banks. Public sentiment demanded them; and the Executive and the Legislature had not courage to resist. It was what had grown up as public opinion, which in a few months would have been discarded. I firmly believe that members are now casting their votes under the influence of a supposed public sentiment created without—which will be counteracted by the sober second thought—a sentiment manufactured by a few newspaper scribblers in the State.

I believe in my county, as at present advised, the people think the single district system and biennial sessions are necessary; that it will reduce expense and lessen legislation, without reflecting that we are going to cut off local legislation; without reflecting that we may fix some general principles, leaving the legislature to enact general laws, which they can get through in a short session. This does away with the cry for single districts and short sessions.

But it is said you must bring the representative down to his constituents. That is the only argument of any weight. But, sir, are there no dangers to be apprehended from this system, which may more than counterbalance the advantages? Take a small community, among whom there may be an aristocratic nabob with his millions. Hundreds of persons may be dependent on him for employment. He, sir, will have absolute control in his district. Take a moneyed corporation in a small village. Their influence among the middle and mercantile classes will over-ride the sentiments of the community. Is there no danger in this? Will it not localize so as to bring the power into the hands of an individual, rather than the people? In larger circles they cannot govern them all. I bring this as a reason why you should not

bring the representative nearer to his constituents. We might as well say that a single township shall elect the Governor, because they know him.

This will reduce the character of our Legislature—men of less ability and less integrity will be elected from your counties. I am aware that it will be disastrous to the interests of the people, and that in less than five years a change will be called for. I do not suppose that any argument I can adduce will change a single vote in this Convention; but I am willing that my convictions shall go forth with my instructions. I recognize myself as the mere agent of the popular will, and I must act in accordance with it; but it is my conscientious belief that popular opinion will be changed.

In the northern portion of Michigan, to some extent, there has been a public opinion manufactured and fixed, and so far as it is expressed, they are in favor of single districts, both representative and senatorial. The gentleman from Wayne [Mr. FRALICK] expressed his regret that allusions were made to political organizations. I have no such delicacy, nor ever had. If a man believes that the good of the country depends upon such a particular form of government, should he not direct his attention in the Convention, as well as elsewhere, to that class of measures which will keep in the ascendancy a particular political party? I believe conscientiously that, applied to us as a State, and as a Union, on the democratic principle being sustained, depends the permanency of our Union and the prosperity of our citizens.

I shall vote for the fullest extreme which the gentleman claims as due to public opinion and instructions. I shall go for biennial sessions—for the single district system for representatives; then I shall go on and apply it to Senators; and last, I shall vote that they be elected for two years. Then, sir, I shall say the Senate has become a useless body; that it will be anything but a counterpart to the House—that it will be a court of reference made of the same materials—a mere dignified appendage to that body; and I believe it would be as well to consummate our measures of reform by cutting it loose, and leave the Executive and one branch of the Legislature to govern the people. It would not be more dangerous than the present plan—the action proposed by this Convention.

Mr. N. PIERCE—I have not heard any good reason for adopting the principle of double districts. All the argument goes to show that the single district system, as applied as well to Senators as Representatives, is called for. I believe that it is a question well understood in every part of the country. Some counties have not expressed their opinion in public meetings; but many have, and in some the expression has been nearly unanimous. I have not heard one argument that has convinced me that single Senatorial and Representative districts are not preferable. How would it answer to elect Senators and Representatives through the entire State by a general ticket? Sir, the proposition would not be listened to a moment. The single district system is better; it brings those elected nearer to the people. We are bound to act in the best manner for the people that we can, whether they ask for it or not. They have not asked not to have it. In the county in which I live, there will be some difficulties; we shall not have population enough to entitle us to two Senators, while we will have a large fraction more than will entitle us to one.

Yet, I would still prefer the system. I would rather elect a Senator from our county—at some time or other we shall be entitled to two Senators. I believe there will be no difficulty in the county of Wayne. We shall all be better represented. I see no difficulty in the matter at all.

Mr. KINGSLEY—I shall vote for the single Senate system, and I think the reasons will apply the same for that measure, as that of the single Representative system. It is said that the Senate is a conservative body. Why, I have seen the House more conservative than the Senate. As far as my experience goes, matters are more generally presented in a crude and unfinished state in the Senate than in the House. With respect to this conservative feeling, which is by some thought necessary, and which is derived from the English constitution, it is proper to remember that ours differs in principle somewhat from the English. The Senate is different from the House of Lords. They are a sort of half way between the King and the House of Commons.

The Senate of the United States is differently situated from the Senate here.

It is beyond popular feeling for a term of six years. It may be proper to elect them for a term of four years, so that by going out on rotation we shall not at any one time have an inexperienced body; but I see no force in the argument that if elected for a larger district they will be more beyond popular feeling or popular prejudice.

Mr. McCLELLAND—I supposed that this question would have been decided without discussion, and did not intend further to trespass upon the attention of the members, as I had given my views at some length on it, in committee; but I feel called upon to reply to some of the remarks that have been made.

The delegates from Monroe are differently situated in one respect from many who have addressed the Convention. They come here without any instructions; and it is a characteristic of that county that their representatives are never instructed, but always expected to do their duty, and be able to account faithfully on their return to their constituents. We come, then, untrammelled, and are left to the dictates of our own judgment. If we were merely acting for the benefit of the county of Monroe, we should without any hesitation vote for single senatorial districts, because it must be evident to all who have paid any attention to the subject, that by this method the influence of the large counties is broken, and the smaller counties obtain more power than they possessed before. Connected with small counties as heretofore, the large counties would to a certain extent, control the whole; and hence, in many respects, the single senatorial and representative system would result to our advantage. Impose it upon the counties of Wayne, Oakland and Washtenaw, and you destroy much of their present political importance.

But I look upon the question in quite a different aspect. I am for preserving the distinctive features of the Senate, and giving to it that character it should possess, in order to answer its original purpose. Adopt the measure proposed by the committee of the whole, and in my judgment there will be little gained by having two separate bodies. You might with as much propriety and utility divide the House into two distinct bodies, and require the bills to pass through the same ordeal as at present;

or appoint a dozen of the more experienced and talented members to act as a council of review on the acts of the other members.

The gentleman from Wayne says that the interests and people represented in the Senate and House ought to be the same, and you should bring the members of both as near the people as possible. This is contrary to my idea of a Senate. I have always supposed a Senate should be differently constituted from the House, and should represent different interests and people, and that it should not be confined to the same territory. This idea of the gentleman is the reverse of that entertained by the framers of most other constitutions. The constitution of the United States, which, in this regard, has been so highly lauded by the gentleman from Calhoun, [Mr. PIERCE,] is founded upon a different principle. The Senate there represents the sovereignty of the States and territory, rather than population; and the grand idea was to have the representation in the one House different from that in the other. I want as far as practicable to assimilate our Senate to that, and preserve as many of its features as we can, consistent with the views and preconceived notions of our people. We find that in every State where it has been adopted, it has worked well, and has had a most salutary and happy effect. We find moreover that wherever the Senate has been abolished, the result has been most disastrous, and that with great unanimity the old system was speedily re-adopted, and this feature in the constitution restored. Such was the case in Vermont and Pennsylvania.

We have, then, the experience of nearly all who have preceded us—of the different States—of the framers of the constitution of the United States, and particularly of the two States already alluded to, and which tried a similar experiment; and it appears to me to be unwise not to profit by it.

Gentlemen say we take the Senators away from the people, and destroy their responsibility to them. I attach no importance to this argument; for with the same propriety you might say the Governor was taken away from the people, because the district electing him is larger. I confess I cannot understand this objection.

The gentleman from Washtenaw [Mr. KINGSLEY] says that he has been a member of both houses, and that one is as conservative as the other; but, on the whole, he thinks the House is a little more conservative than the Senate. This may have been so; but it is to be regretted that men elected as Senators should have so far forgotten for what they were elected. We know what the design of the Senate is, and what its character should be; and what has been its conduct heretofore, should not prevent us from constructing it properly now. We should indulge the hope that the older we grow the wiser we may become; and that under the new constitution a new order of things will arise, and that all our institutions will be appreciated and their design carried out. If what the gentleman states be correct, it only shows that whilst the gentleman was a member of the Senate, it did not possess that character which it should have, and which the people and this Convention desire to confer upon it.

I ask the delegate if a Senator representing more than one county is as apt to be moved by the excitement that may prevail in one of the counties of his district, as if he were the representative of that county alone? Is he not more competent and better fitted to represent the whole people calmly and dispassionately in the one case than the other? Make him responsible to a large extent of territory, and although he may reside in the midst of the popular excitement, yet he will generally survey the whole district, and act in accordance with the desires and interests of all. Representatives have charge of particular localities; but Senators should have their attention directed to large districts, and to the interests of the whole State. Experience teaches us that the Representative confines himself to the county in which he resides; and it is of importance, if you have a second body, to so construct it as to serve some useful purpose relative to the other. I appeal to the members of this Convention, and ask with great confidence, whether any one believes that a representative from a single district in a county, and a Senator chosen in the same county, will not in most cases represent the interests of the whole county, and partake to the same extent the popular feelings and passions of the county? They will be

affected in the same way, and be actuated by the same motives; and the only thing gained is an increase of representation.

[Here Mr. McC. read from one of the numbers of the Federalist, Mr. Madison's views upon the design of a Senate, and commented upon and applied them to the question under discussion.]

It is said the people are in favor of the single Senatorial district system. It may be so; but my impression is, if they would take into consideration the proper design of such a body, they would not be. Why are the people so unanimously in favor of single representative districts? One of the principal reasons is, that the people in the rural districts think that the politicians in your cities and villages, manage your conventions, and too often outrage their feelings, and that this system will enable them to avoid such evils. With your single Representative districts, and your political conventions adapted to them, one of the most important objections to the old Senatorial system is obviated, because a fairer and more satisfactory representation in your conventions can be had. Reduce the number of Senators to a single district, and a reduction of the term of service will necessarily follow. It will not answer to have only half the districts elect a Senator every two years, and I am satisfied a large majority of the Convention are opposed to it. I shall therefore feel myself compelled to vote for the term of two years, although by so doing we deprive the Legislature of the experience the other system would give. The object of the committee when they recommended four years as the term of service was, that the Senators should be returned from double districts—one to be elected every second year from each district. This would keep in the Senate a certain number of experienced men, who would be of great service in the legislation of the State. But the system which will probably be adopted, will entirely deprive you of this aid. In framing the constitution, we should look to the future as well as the present. The small counties may experience some inconvenience from the operation of the present system; but it will not be long before those counties will be densely populated, and there will be no further cause for complaint. Again, many of the counties that will be now well suit-

ed with the single district system, may at the next apportionment be as badly off as some of those counties opposing it.

We are preparing a fundamental law for, perhaps, millions to come; and it behooves us, if practicable, to establish some rule which will meet most of the contingencies that may arise. I cannot conceive of a better plan than to leave the matter to the Legislature, with such limitation as I have proposed. My desire has been to make the Senate a conservative body, and a check upon the House of Representatives. The single district system may preserve some of its usefulness, but I fear it will deprive it of many of its most valuable characteristics.

Mr. N. PIERCE said the argument of the gentleman from Monroe, convinced him the single district system was right. One of the objects, as the gentleman had stated, was to limit log-rolling—to bring it down to the people who vote for the representatives. In large districts, with four members, the outsiders have very little influence in the nominations. The gentleman had stated it right; it was to break down that organization which goes against the will of the people.

Mr. P. did not think the argument of the gentleman was correct in one respect; he did not think the Senate of Michigan should be considered as similar to the Senate of the United States. The Senate of the United States was not a representative body; but we get up our Senate on the same representative principle as the House. Though he did not consider the Senate of Michigan to partake of that high aristocratic character as the Senate of the United States, yet he was not disposed to merge that body with the House of Representatives. It would be safer to retain two houses.

The gentleman from Wayne says it is going to destroy the influence of the great counties. It would prevent them swallowing up the little ones. If you join small bodies of people with large ones, they can do nothing—they are in the minority. As soon as a county has a sufficient population for a Senator, let them have one; it will break down the influence of the great counties, and bring the representatives nearer to the people. The nearer it comes home to the people, the better. The system appeared more rational and systematic.

The question was taken on the amendment to strike out "one" and insert "not more than three," and lost:

YEAS—Messrs. Alvord, Arzeno, Bagg, J. Bartow, Beeson, Butterfield, Choate, Church, J. Clark, Crary, Crouse, Desnoyers, Dimond, Eaton, Gibson, Graham, Hart, Marvin, McClelland, McLeod, Mosher, Mowry, J. D. Pierce, Redfield, Roberts, Robertson, M. Robinson, Rix Robinson, Soule, Storey, Sturgis, Sutherland, Town, Whittemore, President—35.

NAYS—Messrs. W. Adams, Anderson, Ax-ford, Backus, Barnard, H. Bartow, Beardsley, Britain, Alvarado Brown, Ammon Brown, Asahel Brown, Burns, Bush, Carr, Chandler, S. Clark, Comstock, Conner, Cook, Cornell, Danforth, Eastman, Edmunds, Fralick, Gale, Gardiner, Green, Hanscom, Harvey, Hascall, Hixon, Kingsley, Kinne, Lovell, Mason, Moore, Morrison, Newberry, Orr, N. Pierce, Prevost, E. S. Robinson, Skinner, Sullivan, Tiffany, Van Valkenburgh, Wait, Walker, Webster, Wells, White, Whipple, Williams, Willard, Woodman—55.

The question being on concurring in the amendment made in committee of the whole, to strike out "two" and insert "one,"

Mr. CHAPEL said, it is generally understood here that the delegates from Macomb county came here instructed to go for this thing. It is true we were instructed by a small knot of men, got together in the Court house; a promiscuous number instructed us to vote for single Senatorial districts; but I am opposed to it. I don't believe in the doctrine. I believe in extending the greatest good to the greatest number. I do not believe in tying the Senators down to single districts. I suppose the rule is to vote agreeably to instructions; and as there are a great many smart men in Macomb county that will want to know why I did not obey instructions, I feel disposed to state my reasons. It perhaps will not injure me. I cannot well be down, because I ask no favors from any party. I am independent of office, and the emoluments of office; but I would like to carry out the wishes of Macomb county.

I believe (said Mr. C.) to adopt the single Senatorial district system would be wrong. The interests of the party that

have moved forward the car of democracy for the last sixty years, will be injured. That is the reason why I cannot give my vote for it. I believe it is wrong and anti-democratic. I shall wait and see. I believe if the Convention tie it down, that three years will not pass over before there will be more complaints and curses against those who tied it down, than against those who disregarded their instructions.

Mr. C. had become satisfied from the arguments of gentlemen, that Senators ought to be elected for a longer time and for a larger district than Representatives, and that the proposed single district system for Senators would work injuriously. Wayne, from her population, will be entitled to two Senators and have a large fraction; this will give her three—it will make her stronger. Macomb, with her eighteen thousand inhabitants, will have one, and a fragment unrepresented, unless county lines can be broke down. It will soon be discovered to be wrong, and the people will be desirous of backing out of it; but there will be no remedy; it is proposed to tie it up constitutionally, so that there will be no redress.

If (said Mr. C.) they would fix it so that the Legislature could change it if it proved injurious, I would go for it; as it is, I must go against it, instructions and all.

The amendment was concurred in:

YEAS—Messrs. W. Adams, Anderson, Axford, Backus, Barnard, H. Bartow, Beardsley, Britain, Alvarado Brown, Ammon Brown, Asahel Brown, Burns, Bush, Butterfield, Carr, Chandler, S. Clark, Comstock, Conner, Cook, Cornell, Crouse, Danforth, Eastman, Edmunds, Fralick, Gale, Gardiner, Graham, Green, Harvey, Hascall, Hixon, Kingsley, Kinne, Lee, Lovell, Mason, Moore, Morrison, Mosher, Mowry, Newberry, Orr, J. D. Pierce, N. Pierce, Prevost, E. S. Robinson, Skinner, Sullivan, Tiffany, Van Valkenburg, Wait, Walker, Warden, Webster, Wells, White, Williams, Willard, Woodman—61.

NAYS—Messrs. Alvord, Arzeno, Bagg, J. Bartow, Beeson, Chapel, Choate, Church, J. Clark, Crary, Desnoyers, Eaton, Gibson, Hanscom, Hart, Marvin, McClelland, McLeod, Redfield, Roberts, Robertson, M. Robinson, Rix Robinson, Soule, Storey, Sturgis, Sutherland, Town, Whittemore, President—30.

Section 3 was read, which provides for the enumeration of the inhabitants and the apportionment of Representatives.

The question being on concurring in the following amendment made in committee of the whole: "every organized county containing 2,000 white inhabitants shall be entitled to one Representative."

Mr. SUTHERLAND proposed the following as a substitute:

"Provided, that until the apportionment under the census of 1855, the counties of Saginaw, Tuscola, Midland, Sanilac, Newaygo and Montcalm shall each be entitled to at least one Representative; and all other counties now or hereafter to be organized, to at least one Representative each, whenever it shall contain 1,500 inhabitants."

Mr. S. said—Mr. President, I wish to say but one word on this subject. I expressed my views somewhat at length on a former occasion. Some objections were made to the proposition then offered, from the fact that some counties were organized with a few inhabitants, and that the expense would be too great to allow each county in the upper peninsula a representative; this amendment does away with those objections—none of the counties mentioned are in the upper peninsula—none of them with few inhabitants. Saginaw contains something like 4,000. The others from one to three thousand; and if not allowed a Representative now, they will be deprived till 1859. There are six counties mentioned in the amendment, which are rapidly increasing in population and in every respect; and they are entitled to, as I hope they will receive, some consideration in this Convention.

Mr. S. was glad to see a liberal feeling prevail in the Convention. In the old counties where they have a population equal to half of the ratio, they will be entitled to a member; on that ground they would be entitled to three Representatives. Under the new rule there would be injustice done. Before another apportionment, they would come up to the ratio of representation. He hoped that gentlemen, before they voted upon it, would investigate, and treat the northern counties with liberality.

Mr. WILLIAMS would inquire what Saginaw had been doing for the last fifteen

years? How much had they increased since '35? they had a representative then.

Mr. SUTHERLAND stated that in 1845, the number of inhabitants was 1200. Judging from the vote, they have increased to 4000; that was some proof that it was a prolific region.

Mr. N. PIERCE thought the provision in the article was a liberal one. Sixty-four members must take about 7000 as the ratio. It gives the new counties a member on a population of 2000. This is liberal. He would not attach a member to a county until the amount of population was known.

Mr. LOVELL said, what the gentleman from Saginaw asks, is not more liberal than the provision in the present constitution, in relation to new counties. He did not know why this Convention should be less liberal than the Convention of '35. If they were wise, why should we be less wise? It is said the amendment made in committee of the whole, is liberal. It is so in one sense, for 2000 is not perhaps a third of what will entitle the people to a representative. But, sir, when can we come into the enjoyment of this excessive liberality. When will the census be taken upon which we can act?

Mr. CORNELL—It is being taken now.

Mr. LOVELL—The gentleman from Jackson says it is being taken now. Well, will the county of Montcalm, the only county in which I have a particular interest, have any advantage from it? Montcalm is attached to Ionia for judicial and representative purposes. Suppose they have a population of 1,900, a little short of 2,000, when will be the time that Montcalm will have a Representative? Not before 1859, unless the Convention regulates this matter.

I am not fully prepared to say I would adopt the amendment of the gentleman from Saginaw; but I am satisfied the amendment of the committee does not do justice to the people of the new counties.

On motion of Mr. CHURCH, the Convention adjourned.

FRIDAY, (28th day,) July 12.

The Convention met pursuant to adjournment and was called to order by the PRESIDENT.

Prayer by the Rev. Mr. SANFORD.

DEATH OF THE PRESIDENT OF THE UNITED STATES.

After the roll was called, Mr. BACKUS rose and said:—

I arise, Mr. President, as well in respect for public feeling, as of the better sympathies of our common nature, to the performance of a painful duty, in the formal announcement to this Convention, of the death of ZACHARY TAYLOR, President of the United States.

This event took place at Washington, on the evening of the 9th instant.

Sir, the inscrutable purposes of Providence in this afflictive dispensation, depriving the nation of its chief Executive Magistrate, at a juncture so big with events as the present, we can neither fathom nor fully comprehend.

The ebony wing of the Angel of Death is over the nation—her head is smitten—he has bowed to the mandate of Omnipotence, "thou shalt surely die"—he is numbered with the dead. But one thing, sir, we can do. Draw instructions from the admonitions of this Providence, that again admonishes us of man's mortality—that the great leveller of human distinction, *Death*, marks indiscriminately for his victim the high and low, the great and small; that even a nation's confidence cannot shield its possessor from the unerring shaft of death.

It teaches, too, with the same unerring certainty, that he who would be truly great must be truly good; that mortality can become immortal alone by virtues that shall leave an impress on society when the mortal man shall be numbered with the countless hosts of the forgotten dead.

In making this announcement, I shall, sir, be permitted to say, that not only the distinguished position, but the virtues of the man whose death it has been my duty to announce, challenge from us and the whole American people, deep sorrow for the national bereavement.

The death of the Chief Magistrate of a nation is at any time and to any people a sad disaster; to us, as a people, emphatically so. Not only from the peculiarly important matters that now engross the attention of our national councils, but also at all times from the very nature and organization of our form of government.

With us the sovereignty of the nation is

invoked to select from its citizens him who is to guard and guide, as the Supreme Executive, the national destinies. None can exercise this delicate and responsible trust like him to whom the trust is directly confided. Before this fearful stroke of Providence, the rancor and commotion of partisan strife must sink back abashed, as seeing the hand of Him who doeth His pleasure in the armies of Heaven, as also among the nation of the earth. The better and nobler feelings of our nature will predominate, and all concur in one common sentiment to honor, in death, him, whom in life the millions of our republic have loved to honor.

This, sir, is not the time or place for me to pronounce the eulogium of the illustrious dead; our feelings at this time are too nearly allied to despondency to permit it. I shall, however, be permitted to say of his public services, in which almost from boyhood he has been engaged, his nation's banner has been borne by him in triumph, and untarnished through all the varied scenes of a soldier's life, with honor to himself and glory to his country. His life presents an example worthy of emulation to all who may follow him, as combining the stern tenets of war happily blended with the milder sympathies of a good man and magnanimous conqueror.

As a statesman, to which position the confidence of the American people in his integrity, by their free suffrage elevated him, he brought to the councils of the nation a heart uncontaminated with the tricks of political manœuverers, and bent firmly and alone on an unwavering purpose to do his duty; this part none will deny. He has nobly and constantly aimed to perform with a single purpose to the public good. He will go down to the grave with the proudest title that man can bear—the unanimous sentiment of a great nation that he was an *honest man*.

As a man, his elements of character, as illustrated in his life, were all such as we must ever praise and admire. To those who knew him personally, his memory, as was his life, will ever be endeared by all the most pure and holy ties that can bind man to man; he was but to be seen and known to be admired and beloved; of unflinching integrity, untarnished purity. He is dead. The Angel of Death has smitten the nation. His history will become that of

the nation, who elevated him to the highest station within their gift. The present will with heartfelt sorrow lament him, posterity will do him honor—he was a great, because he was a good man.

I hope, Mr. President, in testimony of our respect, and a nation's grief, under this sudden national calamity, this Convention will now adjourn.

Whereupon, Mr. ROBERTS offered the following preamble and resolutions:

Whereas, a benignant and inscrutable Providence hath, in its wisdom, removed from the scenes of his usefulness and the great theatre of human action, a renowned warrior, a distinguished patriot, and a beloved statesman, General ZACHARY TAYLOR, the President of the United States; it is

Resolved, That this Convention, as a testimonial of their deep and profound respect for the memory of the deceased, and of their unaffected sorrow over this sudden bereavement to the Republic, will adopt the usual insignia of mourning.

Resolved, That this Convention do now adjourn over until to-morrow.

And the same were unanimously adopted. So the Convention adjourned.

SATURDAY, (29th day,) July 13.

The Convention was called to order by the PRESIDENT.

Prayer by the Rev. Mr. SANFORD.

PETITIONS.

By Mr. COOK: of John W. May and 81 others, citizens of Hillsdale county, asking that the new constitution may provide that the Legislature shall have no power of authorizing the sale of intoxicating liquors as a beverage; also,

By Mr. GARDINER: two several petitions of 134 citizens of Washtenaw county, praying for a like provision.

Referred to select committee upon the subject.

By Mr. WILLIAMS: of E. C. White and 43 others of Centreville, St. Joseph county, relative to the right of suffrage.

Laid upon the table.

The Convention having reached the order of unfinished business, resumed the consideration of the article entitled "Legislative Department."

The question being upon Mr. SUTHERLAND's amendment:

"Provided that until after the apportionment under the census of 1855, the counties of Saginaw, Tuscola, Midland, Sanilac, Newaygo and Montcalm, shall each be entitled to one Representative, and all other counties now or hereafter to be organized, to at least one Representative each, whenever it shall contain 1,500 inhabitants;"

Mr. BARTOW moved to amend by striking out all after the word "Representative," where it first occurs.

Mr. SUTHERLAND accepted the amendment.

The question was put, and very few members voting thereon, before the vote was declared by the chair,

Mr. BARTOW rose and said—I cannot suppose that the Convention will refuse this to the new counties. If all the facts were known, I think the vote of the Convention would be different. I shall feel called upon to ask for the yeas and nays.

Mr. S. CLARK would like to know the number of inhabitants in the new counties, whether elections had or had not been held, &c.

Mr. BARTOW—The gentleman from Saginaw could more fully explain. I will give what information I possess. Tuscola has a population of 2,000, Midland 800, Sanilac 2,500. Respecting Montcalm, I am not prepared to make any statement. They are rapidly advancing in population and wealth. Under the first constitution, it was a question whether the new counties should be represented, except they had the same ratio as the old counties. It was, however, allowed; and it has been universally conceded that the State never made so good an investment. It induces a settlement of the country—it assures them that they are not beyond the reach of humanity; that they will have the privilege of representing their own rights and their own interests.

It has been almost as beneficial to the older counties as the county thus allowed to be represented. You have in the representative a knowledge of the population, the resources, the wealth of each county. That, of itself, would be sufficient to pay the expense. Again, the expense of a member for forty days, and that once in two years, will not be much. He will give

as much value in the shape of information, as the State will pay him for his services.

But the chief recommendation is that it induces settlements. Gentlemen will bear me out in saying that there is not better land in the State of Michigan; and I consider that it is of the highest importance to this State to encourage the new settlements by every means in their power.

I cannot conceive any good ground for a single negative vote upon this proposition; and, I doubt not, the good sense of this Convention will agree with me in this matter.

Mr. CHURCH—Information, sir, has been asked for respecting the counties enumerated in the amendment under consideration, and I propose to furnish a little respecting one of them. The county of Newaygo, sir, lies north of the county which I in part represent, and embraces, in connexion with the adjacent county of Oceana, the principal portion of country commonly called Muskegon. A river by the latter name runs through it, the course of which is nearly parallel with the Grand River; a river of less length indeed than the Grand River, and of less average width perhaps, but discharging quite an equal amount of water, the Rapids of which furnish an immense water-power, and which intersects a region of great fertility of soil, and also containing extensive and valuable pine-ries.

This county now furnishes a large annual supply of lumber for the markets upon the west side of Lake Michigan; the transportation of which maintains now a respectable and rapidly augmenting marine. The harbor, at the mouth of the Muskegon River, is rated as the second best upon the Michigan side of the Lake; being upon the lee-coast, and consisting of a lake about seven miles in length by two in width, of a sufficient depth of water to float the vessels navigating the main lakes. The small lake is connected with the main lake by an outlet sometimes barred by the sand accumulated by the action of wind and wave; but the contemplated improvements by the general government will remove this obstacle. The erection of a Lighthouse has been determined upon at that point, and liberal appropriations for the improvements spoken of are recommended by the surveying parties detailed

by the Secretary of the Treasury, for the examination of the east coast of Lake Michigan.

Of the population of this district I cannot speak positively. Large additions have been made the past year to the agriculturists; a demand existing for their products on account of the numerous mills in operation upon the river, and the people and teams employed about them. I should think that the population must now crowd upon one thousand; and taking into account those who are scattered along the Lake shore, perhaps it will exceed two thousand.

But, sir, the position of this district entitles it to one Representative in the Legislature, because, unless furnished with one from its own territory, it must go virtually unrepresented. The Representative from Kent county cannot take care of it. The inhabited and active part of Newaygo is separated from us by a belt of heavy timber, on each side of which the immigration deposits itself; a natural barrier thus being placed against an easy and intimate connexion. Our interests are rival. I do not indeed admit, that to a statesmanlike mind, there is any real rivalry between parts of this State, save a generous competition in progress and improvement. Yet such language is used, and oftentimes such a course is pursued as indicates a rivalry between districts contiguous and engaged in similar pursuits. There would be a call for legislative favors, and one or the other would be likely to denounce the bestowment of these favors as partial. Last winter a law was passed providing for the appointment of commissioners to locate the county seat of Newaygo. But, upon examination of the late session laws, I find the county has not been organized. This fact shows how careless has been the legislation respecting her. She cannot depend upon Representatives from other counties to take care of her. A man from herself, and full of regard for home and home interests, must be had. I ask this Convention to secure to an interesting and valuable section of the State, this boon. She will amply repay you for the favor in her immediate contribution to your treasury, from the persons and property your mark of attention and encouragement will roll within her borders. I care not much

how you modify this section, if it, in any and every shape, gives a Representative to Newaygo. That is my *sine qua non*; Newaygo is my pole-star; throughout this debate I have held her up as a guide—willing to come out any where, and with any body, if Newaygo gets a Representative.

Mr. CRARY moved to amend the amendment made in committee, by striking out the words "containing 2,000 white inhabitants," and inserting in lieu thereof, the words "at the time of the adoption of this constitution."

Mr. C. said, we have said in section 5, that no county shall be divided, and we must suppose that the smaller counties are similarly attached to their county lines. There is, in fact, a greater reason why they should be represented, as there is a greater amount of territory, and much information to be acquired respecting the various interests of the county.

We have conferred upon each county certain legislative powers. It is, then, proper that each county that is organized should be represented. I care not whether it has a population of 1,000 or 6,000, when a Legislature thinks it proper that a county should be entitled to a separate organization, it should be entitled to a Representative; it should come here and speak for itself.

It is said that you give representation to the woods, and rocks and rivers. Be it so, for we are not proceeding entirely upon the principle of representation by numbers. We are, by the single district system, disfranchising all the fraction that is above a certain ratio. If we adhere to the principle of single districts, confined to county lines, to a certain extent we deny the principle of representation based upon numbers alone.

A new county has more need of local legislation than an old one. We must legislate for the new sections of the State, or bye and bye our political calculations will come to naught.

I wish so to provide in this Constitution that the new counties may have a common interest with the rest. I wish the same liberality to be extended that was shown in the last Convention. Then, St. Clair, Branch, Hillsdale, Livingston, and several counties north, all came in with a population below the ratio. Chippewa came in

with a population of 300. Has the State ever suffered by that act? No sir, and yet Chippewa has had a Representative for 15 years, and never yet has had a population equal to the ratio. The numbers may be small, but there is an immense territory; but that is woods, and rocks, and trees, and not population.

I will venture the assertion, that but for this representation, the copper country never would have been known to this day, and all the interest that we feel toward that country would have been lost, for we should not have known it. It was the knowledge which came from there which led to the discovery of the resources of the country, showing that it was all that we could desire as a country, in its mineral resources, its timber and its fisheries. Just as long as we vote to retain the county lines and keep a county organization, so long shall I vote and wish the new counties to have a Representative, believing that the county lines are as dear to them as they are to us. Again, it is utterly impossible for one individual to represent the interests of another county, in addition to his own. We should have, in the Grand Traverse, a county detached from any other at least 150 miles; and yet it would so happen if this is so decided. We are bound to take care of the Upper Peninsula, and it is our interest to give it a full, and more than a full representation. Their interests are so disconnected, that we should give them Representatives in order to have an account of the wealth and resources of that portion of the State. Except you do this, you may have a State—a State government—a State law—and you may have 22,000 people in direct rebellion against your authority; not only in interest, but in feeling. They will think that all their interests are different from yours. Give them a voice, whether few or many, and you will bring about a concurrence of feeling which may continue until they become a State of their own. We are bound to take care of it until it can take care of itself.

Mr. SUTHERLAND withdrew his amendment.

Mr. BRITAIN moved to amend by inserting "with the territory thereto attached."

Mr. B. said—I have listened to the ar-

gument of the gentleman from Calhoun, and with respect to the disfranchisement of part of the county, I must correct him, as it is the rule that an additional Senator and Representative is given when the county has more than half the ratio. I have been a resident of new counties for nearly twenty-four years; and I should know something of their wants and wishes. Why should a Representative be sent from every organized county? For what purpose is it organized? Sir, it has no reference to township organizations; it is simply to enable you to introduce courts, and erect legal tribunals in the county. What does my amendment propose, and what evil would the people suffer from the rule, if adopted? Let us suppose that the common ratio is 5,000; this amendment would extend to such portions containing 2,000, all the privileges that others have, that contain 5,000. Is that not enough? Is it not justice, and more than justice?

The gentleman asks if the delegate from Ionia can represent them? I answer that he can. It is simply the question, whether he is to represent sixteen or thirty-two square townships? Their wants and wishes must be nearly similar. I do not wish them attached to the old counties, because the Representatives of the old counties have not a knowledge of the wants of the new counties; but if territory be attached to new counties, they will be well provided for, because Representatives from new counties will be well acquainted with the wants of new settlements, and responsible to the electors of a new county. I, at an early day, represented that portion of Michigan lying west of Lenawee, and my postage exceeded that of all the other members of the Legislature; yet it was not complained that their wants were not attended to, nor did I find that I could not obtain all the attention to which I was entitled. And I must confess that the members from the old counties were so kind and attentive to the wishes of the new counties, it was only necessary to present the wants of my constituency in a proper manner.

What is the proposition? It is, that when a new county, with such territory as shall be thereto attached, shall have 2,000 inhabitants, they shall have a Representative to attend to their interests; leaving to the Legislature the power of attaching the ter-

ritory in such manner as may be best to the interests of the new settlements.

What kind of a population inhabit these new counties? Are they all electors—citizens of the United States? No sir. A large portion of their population is a foreign population, whom this Convention have decided not to admit to the privileges of electors until they become naturalized citizens, which must take five years. Now, it is easy to perceive that if the present proposition is adhered to, a very few electors will be able to send a Representative. This cannot be denied; and certainly the present ratio is at least fair and just toward the new counties.

Mr. BUSH—I am in favor of giving each county that may be organized at the time of the adoption of this constitution, at least one Representative; and am in favor of making liberal provisions for such counties as may hereafter be organized, with the territory thereto attached.

Gentlemen have opposed this provision as detrimental to the interests of the old counties, and as a violation of a well settled principle, to wit: that representation in all cases should be based upon population. Now, sir, I deny that the interest of the old counties would be jeopardized in the least by this liberal provision. A large amount of the territory of this State is yet in the hands of the general government, and to us, as a State, at present entirely worthless. We cannot tax or touch it. We highly prize it, and exultingly look forward to the time when it shall be subdued and settled, and thus create such a basis of taxation as will make the burdens of government in Michigan as light as that of any other State. Are not the old counties interested in this as well as the new? Should it not, then, be our common object to give the pioneers who break into the forest and prepare the way for the future development of the resources thereof, a voice at the earliest practicable period in the councils of our State? Will not the information that he brings and communicates do more to increase the settlement of the county than any one thing? And are not the real necessities of a new county, in order to obtain a full development of her resources, greater than those of an old county?

Wayne county could to-day represent

Oakland better than the county of Kent can Newaygo; and Oakland and Wayne could either be as well protected without a representation as a number of the new counties, for this reason: Wayne and Oakland are well known throughout the State, and their necessities are known; but the new counties are not generally known, and without a Representative from their own territory, acquainted with the circumstances and responsible to the citizens, her wants and necessities cannot be administered to, and her interests fully protected. But gentlemen contend that these new counties, being attached to others for representative purposes, are fully represented. Let us take up the map of the State and examine this subject. I propose first to take Newaygo. It is represented with Kent. Grand River runs through Kent county; Muskegon River through Newaygo. They both are important auxiliaries in getting the surplus of the country upon the waters of Lake Michigan, and their interests to-day are rival, and that rivalry must continue from the very nature of things. One man cannot represent both satisfactorily.

Next, I take Montcalm. She is represented with Ionia; Flat river runs through Montcalm, and empties into Grand river, below the county of Ionia; the same rivalry there exists, but to a less extent. The same is true with Midland, Saginaw and Tuscola. Sanilac is situated on Lake Huron, with her own port, and is represented with St. Clair, who has a rival point upon the lake. All these counties to-day have vast interests, rapidly increasing, with from 500 to 3,000 inhabitants each; and unless provision is made in this constitution for their separate representation, they will not obtain it until 1859. The next ratio of representation will be about 7,000, based upon the census now being taken; it is not probable that either of the newly organized counties will have a moiety of that number. The State census will be taken in 1855. This Convention have decided on biennial sessions of the Legislature. The session of 1857 will apportion anew the State upon the census of 1855, and the first Representatives that will meet in the council of the State from any of those new counties will be at the session of 1859. When we look back at the history of this

State for the last fifteen years, and see the great increase that has taken place in our resources and population, when we consider the fact that twenty delegates are now in this Convention from territory that was unorganized and but little known, and not represented in the Convention of 1835, are we prepared to place the period nine years in the future when counties now organized, with important interests, shall be first represented; though the gentleman from Berrien tells us the inhabitants of the new counties are foreigners;—carrying the idea that they should not be represented.

Mr. BRITAIN (interposing) wished to correct the statement of the gentleman from Ingham. He had not said so.

Mr. BUSH—Well sir, the gentleman asks, what is the character of the inhabitants of these new counties? They are not citizens, he says; clearly conveying the idea that they are aliens; which may be true, and is to a certain extent; but what county is there in this State that the citizen and aliens do not co-operate and mingle together; they are interspersed throughout the State, and as fast as time will permit they are becoming one people. They do not remain aliens and strangers in this country, but become active and responsible citizens. We need not be skilled in prophetic vision, and look away in the future, to see them assimilate to our people and become thoroughly Americanized. This is our common observation; and will we not extend to them, when they first settle our forests, every privilege consistent with the enlarged principles of our government?

I likewise deny that it is, as has been asserted, a cardinal principle of our government, that representation should be based upon population. Population has been made use of as an approximation towards the basis of representation. In the government of the United States the House of Representatives is based upon population; but the sovereignty of each State is represented in the Senate, which is the only check that the small States have against the encroachments of the large and populous ones, and without which the Union could not exist. This was fully illustrated in the government of Ancient Greece. The power of the strong States continually en-

croached upon the weak, and there being no check in the government, the "tug of war" came. I do not present this historical truth as a parallel to the one now under discussion, but to show that representation based upon population alone, has been tried and failed.

The gentleman from Berrien tells us that the new counties can be well represented by the old ones to which they are or happen to be attached; that he once represented a very large territory, and most successfully. This may have been possible; but I assure the gentleman he has been more fortunate than most men. In 1841 Congress granted to the State of Michigan 500,000 acres of land. By the language of the grant it was donated to be used in building roads and bridges, and draining swamps, &c., advocated by its friends upon the ground that those improvements being made in the vicinity of the land selected, would enhance the value and make saleable the balance of the public lands; thus that the U. S. government, as a land holder, was interested. But, sir, I look back at our Legislative magnanimity to the new counties, and find that, notwithstanding the act of Congress defining the object of the appropriation, those lands, though selected exclusively in the new counties, and most of them in the unrepresented counties, have been used in building railroads in the first and second tier of counties from the south line of the State; and for other improvements, with a few exceptions, far south of the point where they were selected. I ask the gentleman from Berrien, if the interests of those counties were fully protected, when those lands were almost exclusively appropriated in a distant portion of the State.

As yet, we have heard little complaint, though silence is not always a faithful monitor of content. An opportunity is now presented in this revision of the constitution, to do justice to those new counties—those political organizations that have a right, according to the spirit and genius of our government, to a voice in the councils of the State. The delegates in the old counties have the power to withhold this right; but is it policy in this, the infancy of our State, when our population is almost wholly confined to three tier of counties, from the south line of the State, not em-

bracing one quarter of the whole territory, with all the natural resources necessary to sustain thirty times our present population, without the slightest inconvenience? I think not—I trust not. Let that liberality that has characterized the present age, especially the State of Michigan in the formation of the constitution of 1835, continue; then, one Representative was given to each organized county, and liberal provision made for the future. A great change has taken place in the public mind in this country, since that time, in favor of popular government—in favor of liberal principles. Let our action upon this important subject, be equal to the liberality of the times, and we shall adopt the amendment.

Mr. HANSCOM—Since this question first came up, I have given to it all the attention that I could; and the more I reflected, the more I became convinced that it is our duty to give to every organized county at least one Representative. True policy requires it, and the best interests of the State alike demand this action at the hands of the Convention. The experience of the last fifteen years furnishes a good reason for it. The system has worked well; has been found useful. Every argument has been used that need be. I feel so deeply on the subject, that although I come from an old county, I would rather forego one Representative than see the small counties disfranchised.

Mr. N. PIERCE—I cannot see the propriety of giving Representatives where there is no population. One principle should be adopted—that representation should go with population as far as practicable. It is said that one man can represent a large county containing 30,000 people, as well as he can represent a smaller one. Yet, what should we think if the committee brought in a bill to that effect? Sir, the argument is not consistent. If men have rights according to their numbers, those rights should be respected. Representation cannot be made exact, but it can be made nearly so.

My friend from Calhoun said that large portions would not be actually represented in the old counties. His ideas are wrong, or mine are. The county of Calhoun has always had one Senator; and having one she has had but half of one, as he represents districts attached. If we

had a Senator to represent ourselves alone, although we had more than a ratio, we should be better protected. We should elect a man that, by giving his whole attention to our wants, would suit us better.

Mr. CRARY—It is proposed to have 32 Senators. If the county of Calhoun had a population of 50,000, and the entire population of the State was one and one-half million, it would leave unrepresented in the county of Calhoun a fraction of 20,000.

Mr. N. PIERCE—Turn the question. When we have a population of 50,000, and the ratio is 30,000, by the plan pursued of allowing another member when we have more than half the ratio, we should have sometimes more than our proportion, and sometimes less.

But I would rather have one Senator elected for the county than two from a double district. It is necessary to fix some bounds—arrange some system. If we adopt the plan of having 64 Representatives, with a population of 450,000, and give the new counties 8 or 10 Representatives, it would increase the ratio from 5,000 to nearly 8,000. Whilst we shall require 8,000, Tuscola will be entitled to one Representative when she has 2000 inhabitants. What is the force of the argument about the county lines? One man might as well represent several new counties as one that was more settled. I hold that we should show a spirit of liberality to the new counties, but I do not see the propriety of giving a Representative to one county, with a population of 300, when it requires in another a population of 8,000. I have no apprehensions that the old counties will oppress the small ones; they have always helped them. It is certainly their wish to see the new counties settled; but, how will giving them a Representative help to settle the county? It is the nature of the country—its fertility—that makes population. Delegates upon this floor represent territory that is out of their county, and represent it well. It is the policy of Europe to represent otherwise than by members, but it is not our policy; we should always base it upon population. We are told that some towns in the new counties have a population of 1,000; if so, others probably have from 500 to 600; they would then come under the rule; if they do not, they can still join with others and be represent-

ed. If they allow the new four times less than the old counties, it is as much as they ought to expect; and I do not wish to see the amendment stricken out.

Mr. CORNELL—I am aware this is a difficult subject to act upon in this Convention; it always has been difficult. If men in the Legislature have ever been corrupted, it has been upon this subject; that is, the apportionment and the subjects connected with it. It will operate unequally, do the best that you can. We have rules laid down with regard to population, but if we adopt the single district system, it would still be unequal. We should connect territory as well as population in our representation.

I am in favor of giving all the newly organized counties a Representative; it can be done without injustice to others; they should have it. I have heard some ingenious arguments against the proposition, but they have had but little weight upon my mind. If you elect a Representative to the Legislature from a town or county, all other interests being equal, he will go in favor of his own town or county, and confine himself within the lines. That should not be so. He should take into consideration the interests of the whole State. If a question is presented of local advantage, but injurious to other portions, it should be abandoned. But while this is not the case, it becomes necessary that the several portions of the State shall be fully represented. If a new county has not the ratio of population, it needs the more the fostering care of the State; for it cannot be supposed that an individual living in one county can represent another county; that he can be acquainted with their wants. It is not possible. Therefore, I am in favor of electing the individual among the people whom he represents.

I am in favor of the single district system, but there will in that case be fractions that will be unrepresented. There is an objection to it; it will be found so. There will be fault found with it, so much so that I have fears that the constitution may not be received so favorably.

The member from Berrien remarked that several of the new counties were becoming settled by foreign population, and according to a rule they could not vote for a certain length of time; and the reason is

that they are not competent; that they might abuse the privilege. Many of us may abuse the privilege, and yet we think ourselves competent. What is the object of inviting this foreign population? It is to improve the State—make it more wealthy—bring here a wholesome population. If that is the object, shall we shut them out, say that they shall not vote, or know any thing about the operations of our government? They can only know theoretically, and we know but little except by practice. We ought to give them a Representative; for, even if they are not allowed to vote, they will become acquainted with the workings of the government; and it is our duty, the duty of the State, to protect them by representation.

Mr. J. D. PIERCE—I deem this subject of representation an important matter. Our action will affect the general interests of the State. It was said of old time, that "the glory of a king consisted in the multitude of his people." I may add that the glory of a State consists in the multitude of its people. No one can doubt this. Whatever measure, therefore, shall tend to advance the settlement of the new counties and increase their population, will receive my cordial support. Every such advance and increase adds to the taxable inhabitants and property of the State, and to its wealth and power.

Three-fourths of our State is at present uninhabited. Shall we adopt a policy that will have a tendency to continue it so, or by a liberal policy extend the borders of our settlements and increase our numbers? Giving to each new county a Representative will have a tendency to bring it into notice; thereby its resources may be developed and its settlement be promoted. No one can doubt this. The new counties more especially need to be represented. This all must admit.

It is urged that the admission of new counties to a representation before their population reaches the established ratio, will induce the new counties to press for an organization before they shall be fairly entitled to it. But they cannot be organized without the action of the Legislature. And the fact that every new county is to have a representation, will be a sufficient guard against premature organization.

It is said that population should be the

basis of representation. Some urge it as the sole basis. This has never been carried out in full. In the government of the Union, the House of Representatives is based, as near as may be, upon population; in the Senate it is otherwise. There the Senators of the States are equal. The Senators from Rhode Island are equal to those from New York. Here a different rule obtains. In the Senate of our State the new counties can have no representation of any importance. But in the House they can, and should be represented. The counties are organized communities; and this rule of representation should obtain. If it does take a few Representatives from the older counties, they will still be able to take care of themselves. The power will still be in their hands. They can afford to be liberal. Suppose it should bring in some ten members from new counties—what then? It is far better that fifteen should come in than that the new counties should not be represented. The knowledge, the information to be derived from that representation will be worth more than all that it will cost.

Mr. S. CLARK would like to know the number of organized counties in the State, or that will be at the time of the adoption of this constitution. I have no doubt that the gentleman from Calhoun [Mr. CRARY] knows all about it; and I want him to give to this Convention this information.

Mr. CRARY could not give the information.

Mr. WALKER—In fixing the basis of representation, the course of argument has demonstrated the necessity of having a Representative for every organized county in the State. One rises, and another, and says that he is wholly ignorant of the subject; and the reason is, that they are not represented in this Convention. If they were, we should come into the possession of these facts.

I confess that I am laboring under the same ignorance with others—that I cannot give a statement of the number of the new counties, or the number of their population. Will there be so much inequality of influence if you allow a Representative to each organized county? Would there be so much difference in the actual result? The counties of Wayne and Oakland would always have a commanding influence, from

the talent they would be able to send, although they sent but a single representative; and it might have more effect than at present, coming with a divided delegation, as they sometimes do.

We should have regard to the interests of the State in the northern region. Our southern border is densely populated; but the emigration is tending to the north, and it will for the next fifteen years increase yet more rapidly. We shall say that these emigrants shall not be represented for five years, if we adhere rigidly to the rule of a ratio; for although a new county fills up rapidly, yet it will compel them to wait for another census before they can be represented.

In some of the New England States they have a more unequal representation than this at this day. In Connecticut the old towns take precedence of the new towns. The old towns send two members; but all the towns organized after a certain date, send only one; and this, although the population of some of the new towns are double those of the old ones; and in different States a principle has been adopted, in different ways, that the ratio of population shall not be the sole basis. Regard should be had to the prospective interests of the State. Every organized county should have a Representative to inform us of its wants and wishes, and to explain to us the feelings of the people. There may be occasionally a man who can represent the bounds of a constituency, as mentioned by my friend from Mackinaw—the Aurora Borealis on the one hand, and something equally extensive on the other; but these instances must be rare. We must bear in mind that there are rival interests springing up in the lower peninsula with regard to different towns and the course of trade.

Mr. FRALICK—The question has assumed a singular shape. I thought that the first proposition was liberal. I voted in the committee for 3,000, but the committee thought it best to say 2,000; I dissented, and thought we had gone far enough at 3,000. I think that it is now extremely liberal. But gentlemen tell us that representation should not be based upon population; while the other day, when the single Senatorial district system was under discussion, they talked in quite

a different strain. Gentlemen have found a new light. Is it because they think that they are going to be benefitted by taking the other side of the question? I think that a county should not be organized until it has at least 2,000 inhabitants; until that time, they will not be able to support a separate county government; for, according to the rate of population, there will be but about 350 tax payers, besides non-residents.

What is the amendment? To give to every organized county a Representative upon this floor. What then shall be done with the counties that are not yet organized? Shall we admit them upon organization, or compel them to wait until they have a full ratio, which will be from 6,000 to 8,000. I am opposed to the principle altogether, of changing the basis of representation from population to territory, especially in the popular branch. If we give the new counties that are now organized a representation not based on population, it should extend to those organized hereafter; because, those organized now, have no greater claims upon us than those hereafter to be organized.

I will correct one mistake that has been made here. Some of the counties that were received at the adoption of the present constitution had other territory attached to them—or some of them—for representative purposes. If this system is adopted, let us examine for a moment how the rights of persons and the people of the State may be prejudiced: Twenty ambitious men in a new county may combine and arrange their plans for self-aggrandizement, and to the detriment of the best interests of the new county, to wit: One man shall go to the Legislature; the others to have the profits and fill the offices of the new county; they together besiege the Legislature, and through misrepresentation or otherwise, will obtain a paper organization, and they will heavily tax the non-residents for their support; and justice, equality and the rights that should be exercised to the non-residents, would be violated; therefore, I think the principle is wrong. It is said the large counties will oppress and take away the rights of new or small counties. I do not think this is the fact, or that the history of legislation in this State will sustain the assertion. A

large portion of the expenses of the State is incurred by the legislation necessary for the new counties; and the old counties have invariably been generous and liberal in their legislation for the new counties; they have devoted the time of the Legislature and the treasury of the State in bringing out the resources and protecting the rights and interests of the new counties. I think that no county should be represented simply because they have sufficient territory, or a county organization; but that there should be fixed by the constitution a liberal scale or ratio of population, under which each new organized county would be entitled to one Representative; but in my opinion, a moiety of the general ratio would be liberal, and should be required.

Mr. MORRISON asked for a division of the question on Mr. CRARY's proposition.

Mr. M. said—I am in favor of the proposition to strike out, but not in favor of that proposed to be inserted. If the proposition to strike out prevails, the section will then stand so that every organized county will be entitled to a Representative in the Legislature of the State. I concur in the justness of the remark made by the gentleman from Wayne, that if the motion to insert should prevail, it would operate unfairly towards the counties hereafter to be organized; and that is the reason why I call for a division of the question.

I am in favor of extending to the counties that may be hereafter organized the same privileges of representation that we are disposed to grant to those organized at the time of the adoption of this constitution, and shall vote accordingly; and hope that every member of the Convention will feel the justice and propriety of so doing, and vote in a similar manner. We are called upon to act rightly and consistently, not only in regard to the present but in regard to the future, having in view the best interest of the State at large.

Should we make population the sole basis of representation, a large and valuable portion of the State would not be represented directly in our halls of legislation. I would ask if it would not be for the interest, not only of the State at large, but of the more populous counties, to permit every county that the Legislature may deem expedient to

organize, to be represented directly in one branch of the Legislature? It is my opinion that it would; and my reasons for forming that opinion are, that the larger portion of the State is unsettled and its resources undeveloped; and its situation is such that it must settle slowly, and a long period elapse before those resources can be fully developed. And in case that we require the same ratio of representation in the sparsely settled portion of the State that we do in the more populous portion of it, the result would be, in the northern counties, that one individual would represent an extent of territory a portion of which he would know but little about—its fertility or capacity for improvement. But if every organized county, when organized, should be entitled to send a Representative, without reference to the number of its inhabitants, that Representative would be enabled to give accurate information in regard to the locality which he represents, and would be responsible, not only to his immediate constituents, but to the people of the State, for the correctness of that information. And information thus obtained would induce many to settle in the northern portion of the State who would not do so were it not for that information; and all must admit that the interest of the older counties is directly connected with the settlement of the newer ones, and that every additional settlement therein will increase the total valuation of the taxable property of the State, thereby lessening the burdens heretofore almost entirely borne by the older counties in the support of the State government.

It has been remarked by gentlemen that by extending so liberal a representation to the new counties, that it would lessen the representation of the older counties in such manner as to be detrimental to their interests; but this may be obviated by increasing the number of Representatives. The article now provides that the number of Representatives shall not exceed one hundred; by striking out this provision and leaving the future arrangement of the number to the Legislature, so as to be increased as they may think proper, would obviate in a measure the objections urged against the proposition.

Yet, I am so well convinced that it is for the interest of the State, as a State, to

have every organized county—even if its population should not exceed 200—represented by some person residing therein, in one branch of the Legislature, that I would vote for the proposition, although in some respects it might seem to operate prejudicially to the older counties.

It has been urged that the new counties will have, according to the present provisions of the Legislative Article, more than their proportion of representation in the Senate. This can be easily obviated by striking out the clause which provides "that in the formation of Senate districts no county shall be divided, unless it shall be equitably entitled to two or more Senators." If this provision should be dispensed with, those counties having a population exceeding the ratio required in the formation of a Senate district, could be divided, and a portion attached to a portion of another county similarly situated, or to a county not having a population equal to the ratio required.

Mr. LOVELL offered the following substitute:

Provided, That each organized county shall be entitled to at least one Representative; and that each county hereafter organized, shall be entitled to a separate Representative, when it shall have obtained a population equal to a moiety of the ratio of representation hereafter established; and that each county having said ratio and a fraction over, equal to a moiety of said ratio, shall be entitled to two Representatives; and so on above that number; giving one additional member for each additional ratio.

This (said Mr. L.) is no new principle. It was adopted in 1835. This permits to a county that is hereafter organized, a Representative, when it has a moiety of a ratio. I believe that every county hereafter organized, is entitled to a representative before it has a full ratio. The principle is not only established in this State, but in others. The State of Mississippi gives a Representative not only to the counties organized, but to those hereafter to be so.

I do not come here for crimination or re-crimination; but I have had some ideas presented to my mind about which I wish to give my opinion. Some gentlemen, one would suppose from their actions, think that the State of Michigan consists of one or

two tier of counties. We have two rail roads, one passing through the second tier, and it is termed the Central Rail Road; and yet where we are assembled we are but little more than seventy miles from the southern line of the State; while on the north our extent is almost boundless, embracing as it does the upper peninsula.

One gentleman has told us how the old counties love the new ones. Well, words are cheap—actions only tell. The new portions of the State are in the power of two tier of counties. If a person has me in his power and uses me rightly, he is entitled to credit for it—if he does not, I have a right to complain. The counties who have the power can afford to be generous as well as just. Look at the five million loan. Whose votes created it? whose votes divided it? The two southern tier of counties. What disposition was made of the money? True, there was an appropriation made in the Grand River valley; but the money spent, instead of being a benefit, was a positive injury. Thus, while every dollar remains a tax upon the old and the new counties, we have not had from it a local benefit of one dollar. One would have supposed that a portion of the internal improvement fund would have gone to improve our streams, and make our wagon roads; but it did not to any extent; the money was chiefly spent for their own purposes.

Since we have been here, we have been told that we were out of the world—that we must adjourn to Detroit or Marshall. I for one wished to place them for once in this position, that they might say,

“Farewell, vain world begone,”—

that members might be better able to appreciate the toil and the lot of those who have to spend, not the month of a session of a Convention, but the period of their whole lives, in a situation members find so hard to bear for a short time. Every town in the State of Vermont has a representative, let its numbers be what they may. Most of the south-west States have adopted the principle; not alone whig States, but democratic—where the star of democracy arose in splendor, and will doubtless go down in great brightness.

The substitute I have offered embraces another principle. Montcalm will be entitled to a representative. There will be

people in the north bye and bye, and a county will be laid out and attached north of Montcalm. Well, a person may receive a majority of all the electors in Montcalm, while another might receive a majority in Montcalm and the territory attached. A question may arise. The Legislature, it might be said, had transcended their powers. It seems to me that a provision of this sort should be established, for I can see no consistency in giving to one and denying another. It is left for the judgment of the Convention to decide what proportion the moiety shall bear to the ratio. They might say one-half or two-thirds.

I have examined the Constitutions of the south-western States, and there is not one provision that has not received the sanction of more States than one. There is nothing original. I do not claim it as being original. If it has merit it is simply as a combination of different parts of constitutions that have been adopted in the States of the Union. In relation to the 2000 white inhabitants, it will operate unjustly. Just as the Convention fixes it, so it must remain. Well, Montcalm will not have at present quite the number necessary for a representative. When will she be represented? Not, sir, before the year 1859. The census will be taken in 1855; we shall have biennial sessions—that would be the earliest moment, and it would be unjust; for long before that time she will be entitled to a Representative according to a ratio, and during that time her interests must suffer. I thought it my duty, sir, as a resident of a new county, so fully to present my views.

Mr. FRALICK—I rise to correct the statement of the gentleman. The State of Iowa and the State of Wisconsin have not adopted the principle.

Mr. LOVELL—The constitutions of the south-western States indicate that there is a different principle applied than population alone, to entitle to representation; and you will find in their constitutions principles engrafted which will bear out my assertion.

Mr. WILLIAMS said—While we have duties to perform to the new counties, we have duties also towards our constituents to regard. Claims are presented here in behalf of six new counties in the lower peninsula, for representation; and although

the vague statements made here, fall far short of entitling them to the representation demanded, still if these vague statements could be substantiated he was willing to concede. In regard to Newaygo, he had independent reasons for believing the gentleman [Mr. CHURCH] from Kent was correct. From Grand River north, even to Grand Traverse Bay, the lumber trade was already important, and must rapidly increase. He thought that Newaygo and the counties west and north were equitably entitled to a representative. But in regard to the other counties we are left in the dark. It is said Midland contains 800 people. If so, there is no impropriety, no hardship in attaching Midland to Saginaw for representative purposes. Yet, still he thought he would give even a Representative to Midland, if conclusive proof is afforded that she contains 800 people. Here we are, one hundred delegates from the whole State. We are in the building which contains the archives of the State, and here, if anywhere, the evidence can be furnished relative to these counties. How many people does each contain? How many towns are organized? How many votes were cast at the last election? How many scholars have been returned? How much tax has been paid into the treasury? He doubted whether much more was paid into the State treasury than enough to satisfy the per diem and mileage of the members demanded. Now, let us have some evidence on all these points. Let us not vote blindly. Although he believed that one Representative from the densely settled portions of the State represented more interests, more people, more voters, yet still, if the assertions made were substantiated, he would vote to give them all six of the Representatives claimed. But, before voting, he would like to see the whole subject presented. There were some six counties in the Upper Peninsula. The mileage alone of six members from the upper country will be \$1,500. My constituents in St. Joseph must contribute to pay this mileage; and yet no evidence is presented that they altogether pay one quarter as much into the treasury as St. Joseph alone. Now, if it is otherwise, show it. Let us have the facts as demanded relative to the lower counties, in regard to towns, voters, taxes and inter-

ests. If no facts were offered, the Convention were bound to consider that they could not be adduced. Of one fact we should be sure—that every member must be paid \$250 mileage, at present rates of mileage. Now, with due respect to the gentleman from Chippewa, (Mr. ROBERTS,) he would like to know what he wanted for the Upper Peninsula? For himself, he could not vote for a proposition so gross as to give every county now and hereafter to be organized, a Representative. We should have them manufactured too fast. This plan was a mere bounty to adventurers to hasten the organization of counties. Depend upon it, no county will ever be so new as to be destitute of men who seek to live by their wits, rather than by work. Plenty of men will be found who seek aggrandizement in a little way. This man wants to be Representative—this man, sheriff—this man, clerk. Offer them a bounty to organize counties, and your legislative halls may be filled with Representatives without constituents. On this account, I would cheerfully vote for the limit fixed by the amendment offered by the gentleman from Ionia, [Mr. LOVELL,] that after the constitution was in operation, each new county should be entitled to a Representative, when it contained inhabitants equal to a moiety of the ratio of representation. This was just—this was democratic.

He was disposed to be more than liberal; but he did insist that before a vote was blindly taken, the questions he had propounded relative to all the counties in both peninsulas, should be answered, the facts furnished fully and frankly; otherwise, we could not decide this question intelligently or justly.

Mr. J. D. PIERCE—They have paid into the treasury of the State \$4,500; that is one fact; that has been paid for one purpose—for the privilege of digging out what the God of Nature has put there.

Mr. WILLIAMS—That is a fact worth mentioning. I have no doubt that the lumber trade, and the fisheries, and the copper, are valuable. Let us know what we are are voting for; let us have facts.

Mr. ROBERTS hoped that the Upper Peninsula would for the present be let alone. A committee will soon be able to make a report; and when that report is

made, we will tell the people our wishes, our wants, and our resources.

Mr. HANSCOM offered a substitute, as follows:

"Each county (with the territory there-to attached for representative purposes) organized at the time of the adoption of this constitution, shall have at least one member in the House of Representatives."

Mr. H. said—I find that we shall increase the number of Representatives but little; 2,000, I think, is a fair limit. When a new county has a population of 2,000 it should be represented. We propose by the constitution to make each county a sort of sovereignty; to vest with them the power of local legislation; conferring upon them great powers. That being the fact, is it not necessary that the sovereignty that we are permitting by the terms of this constitution should have the right to be heard. Sir, we do not go as far as the old constitution of 1835. They not only gave the organized counties a member, but by combining two or three unorganized counties together, gave them a member likewise. They provided that they should be thus attached, and that those hereafter organized should be represented. What is the force of the objection that is made about the expenses? That must be a small matter of consideration. A member's expenses will not be much, and the expenses of travel are reduced to the lowest rate that will enable him to travel to and from home. He remains twenty days per annum; and I would ask, what is that compared to the great benefits that we derive? The State will be repaid two-fold by the information which will be derived from them. I have traversed the Upper Peninsula, and know something of its destined greatness. The population will be numbered by tens of thousands, and their wealth will be counted by millions. Their wealth will, in less than twenty years, at least equal that of the Lower Peninsula. Lumber, fisheries and metals will make it eventually one of the wealthiest portions of the State. Copper, that is found in so few places on the globe, is found there in such abundance that we shall export instead of importing, and be able to supply the world with that metal so necessary to business. Our constitution is destined to

last for years to come, and I look to the future as well as the present.

Mr. BRITAIN—I wish to answer one objection. If \$4,500 have been paid in from the mines for the privilege of digging copper, will \$4,500 pay for the expense of the time of the Legislature, spent in passing charters for that purpose.

Mr. J. D. PIERCE would ask if the charters were of any benefit to the upper country?

Mr. BRITAIN—Well, they prayed for them; they importuned the Legislature so to do; and I shall be willing always that the Legislature shall attend not only to the ordinary claims of its citizens, but any other claim that may grow out of the peculiarity of any county which may demand, perhaps, peculiar measures of relief.

I hope that this answer is satisfactory. The time spent last winter was equal to the entire amount received in the treasury. I apprehend that I have as much care for the new counties as any member upon this floor; and gentlemen will permit me to say that but two propositions meet my approbation: the one from the gentleman from Ionia; the other, that of the gentleman from Oakland.

If you give to every organized county a Representative, such county will claim the right to furnish the candidate, and the inhabitants of any territory afterwards attached will have only the poor privilege of voting for the candidate furnished by the organized county. I have now the map before me. Midland—where is it? What will you do with the counties adjoining it? Do gentlemen propose to attach them hereafter to Midland? They must then vote for the candidate Midland furnishes. Is Midland alone? No sir: we have a string of counties on the north, which should be attached to the counties that have been named, as they can have no Representatives for a long time to come in any other way. I will go beyond the motion of the gentleman from Ionia. I wish to put other counties on an equality with Newaygo. What will you do with Oceana? There is a settlement at White River; how many more I know not; it is a large county—a lumbering county, and a lake county. If you give Newaygo a Representative, where can you put Oceana, lying between Newaygo and the lake? Will you attach her to

Ottawa? Ottawa is an old county, and a competing lake county. It would be likely to oppress her. No, sir, you must not give Newaygo a Representative, but you should give Newaygo and such territory as may be attached thereto, one Representative. This would place Oceana, and any other territory hereafter attached to Newaygo, upon an equal footing with Newaygo, as they should be. So much for the care members have for the new counties.

Newaygo has 2000 alone; and Oceana is a new county lying between Newaygo and the lake, and cannot, with the least propriety, be attached to any county except Newaygo, and should be attached to it, and have equal privileges with it until she shall be entitled to a Representative. Montcalm contains about 1500, and should, with such territory as may be hereafter attached, be entitled to one Representative.

The gentlemen will now see that I wish these new territories to be attached together upon some more equitable and reasonable terms than those proposed by the amendments before the Convention. I am not so particular how small or how large these districts are made, but I do not want to disfranchise a large population settled upon territory lying north of these new counties.

I think that none of these amendments should prevail—that the section as reported by the committee is right, and should receive the support of the Convention; and that these additions are not properly in the section, but should be put in the schedule; or some committee should get hold of all the facts in the case, and district this new portion of the State?

An appeal has been made to the members for more light; but the Convention seems still quite in the dark. Should it be so? Can we vote properly with the knowledge now before us? Should it not go to a committee, that they may, after enquiry, report back to the Convention an equitable plan for districting, as I have already said, this new portion of the State.

Mr. ROBERTS—I wish to make a remark about the expense that was said to be incurred by the Legislature for the inhabitants of the upper peninsula, with respect to the charters granted during the last session of the Legislature. I admit the willingness of the gentleman from Ber-

rien to aid the inhabitants of the upper peninsula; but it is a reflection to say that \$4,500 was properly spent for that purpose. I ask the gentleman if he, as well as others, was not the cause, by making amendments after the bills were well matured; then, by recommitting to the committee again and again. Then did they not go to the Senate, and by the action of that miserable cobbler who was chairman of the committee on Incorporations of that body, were they not perfectly murdered by a substitute? and each and every charter is refused by the people for whose benefit they were intended to be made, except three, which were smuggled through the Senate by the cobbler Shoemaker, and were passed into laws; and the other thirteen have fallen to the ground.

Mr. BRITAIN—I gave it as my opinion that the money was so expended; and I appeal to the gentleman to say if much of the time occupied by me was not to secure to the inhabitants an ability to tax the property of corporations about to be chartered. The charters already granted imposed a specific State tax, relieving them from all other taxes. I endeavored to get the people relieved from these burdens. Some others suggested that they contained banking privileges.

Mr. ROBERTS—I accord to the gentleman all the merit of his act. He did endeavor to benefit my section by the improvement of the bills; but at the same time, I wish to disabuse this Convention of the idea that this \$4,500, paid in from the mining country, has been spent in legislation, or that it was properly so; for it was not the slightest benefit to the country.

Mr. BAGG—There is such a universal blindness here that we can do nothing about it. We had better leave it to the Legislature to do what is right and proper in the case. I am in favor of extending representation to the new counties; but here we cannot go sufficiently into detail for their benefit, which is the reason why I wish it left to the Legislature.

Mr. MASON—I want some more information; and before I vote I shall be glad to hear from the member from Mackinac on this subject. This is a popular subject, and I do not wonder that members talk so feelingly about it. I am in favor of the proposition of the gentleman from Saginaw,

but I do not want to give from six to twelve Representatives to the upper peninsula, as we have no evidence that they have any organized government.

Mr. ROBERTS explained that there were organized governments in the upper peninsula, and hoped that the members would leave the affairs of the upper peninsula until the committee could make their report.

Mr. CRARY—I cannot consent. I am sitting here as a representative from the whole State, and I do not wish to exclude any part from the benefits of representation.

Mr. MOORE—We set out with the principle that we would make population a basis for representation for the whole State. If we alter that principle in favor of the new counties, it is merely a measure of courtesy to them, and they should so consider it; although there has been an accusation made that the older counties are not inclined to be just. But as the bill now stands, there is a considerable modification of the principle; as it will require 6,000 in the older counties for a ratio of representation, and if we reduce that ratio in the new counties to 2,000, it is enough.

I am willing to give the new counties now organized a Representative, if they will define what they are—what population they have in each county. If they have but 800 in each county, I shall go the whole length to give the new counties now organized a Representative. I think that there ought to be territory attached to make the number of inhabitants 2,000, and that one Representative should be sent for both. But to give all the new counties hereafter to be organized a Representative, is to be more liberal to them than we have a right to be; it is unjust to the older counties.

I am willing to go as far as we can consistently and properly; but to give thirty or forty new counties a Representative, each, with a population in each of probably not more than four or five hundred, will make half of the House of Representatives of new counties, and would be highly improper and unjust.

A division of the question [Mr. CRARY'S amendment] being had, the motion to strike out prevailed, as follows:

YEAS—Messrs. W. Adams, Alvord, Arzeno, Bagg, Barnard, H. Bartow, J. Bartow, Beardsley, Britain, Alvarado Brown, Ammon Brown, Asahel Brown, Burns, Bush, Chapel, Choate, Church, J. Clark, Conner, Cook, Cornell, Crary, Crouse, Danforth, Desnoyers, Dimond, Eastman, Edmunds, Gale, Graham, Hanscom, Hart, Harvey, Hascall, Kinne, Lee, Lovell, Marvin, McClelland, McLeod, Morrison, Mosher, Mowry, Orr, J. D. Pierce, Prevost, Roberts, Robertson, M. Robinson, Rix Robinson, Soule, Sturgis, Sutherland, Town, Van Valkenburgh, Walker, Webster, White, Whittemore, Willard, Woodman, President—63.

NAYS—Messrs. Anderson, Axford, Backus, Beeson, Butterfield, Carr, Chandler, S. Clark, Comstock, Daniels, Eaton, Fralick, Gardiner, Kingsley, Mason, Moore, Newberry, O'Brien, N. Pierce, Redfield, E. S. Robinson, Skinner, Storey, Sullivan, Tiffany, Wait, Wells, Williams, Witherell—29.

On motion of Mr. HANSCOM, the Convention adjourned.

Afternoon Session.

The Convention was called to order by the PRESIDENT.

Mr. STOREY—I desire to say a single word in reference to some remarks made this morning by the gentleman from Chipewewa, in regard to a constituent of mine, Mr. SHOEMAKER, a Senator in the last Legislature, from Jackson. Had I known anything of the facts, I should have alluded to them the moment the gentleman sat down. I have made some inquiries since the adjournment, and will state what I have learned. Mr. SHOEMAKER was chairman of the committee on incorporations in the Senate, and in that capacity passed upon a large number of mining bills which were brought up by the member from Chipewewa. These bills contained banking as well as other extraordinary powers. They were pruned, reported back to the Senate, and then passed. One important amendment made was to increase the rate of taxation from one-half to one per cent. I make these remarks because I think it is due to Mr. SHOEMAKER, and that the allu-

sions of the gentleman were entirely uncalled for.

Mr. ROBERTS—The gentleman from Jackson says that I have acted uncourtously to Mr. SHOEMAKER, who acted as chairman of the committee on Incorporations. So far from that being the case, it was but a proper and necessary answer to a reflection that was cast upon my section, with regard to the time occupied on the affairs of the upper peninsula for legislative purposes. This Shoemaker passed through his hands three bills from the Senate, at the rate of one-half per cent. upon the capital, real estate and personal property of the companies, which passed through the House of Representatives, of which I had the honor of being a member. Fifteen several bills were sent from the House of the same nature; and with regard to the bills containing banking privileges, the assertion of the gentleman from Jackson is false.

Mr. MASON called the gentleman to order.

The CHAIR was of the opinion that the remarks of the gentleman were not in order.

Mr. McLEOD—If it be in order, I move that the gentleman have leave to proceed. We will take the liberty of replying.

Mr. STOREY—I hope the gentleman may have leave to proceed.

Motion agreed to.

Mr. ROBERTS—I have arrived at this point. Some fifteen bills were about to be sent to the Senate, with a tax of one-half per cent. upon the capital of the company, leaving them still subject to the taxes that might be levied for township and county purposes, a provision which the bills of '48 and '49, did not contain. While they were about to be sent up, three bills came from the Senate which were introduced by this Shoemaker, as chairman of the committee, containing the same provisions as those about to be sent up from the House. The Senate bills came down on Saturday or Monday, and were immediately passed in the House of Representatives, because they were in accordance and keeping with the bills going from the House to the Senate. Shoemaker, after the passage of these three bills, as chairman of the committee, introduced a substitute for the entire fifteen bills, on the Monday morning previous to the adjournment, when it was too late for

us to have that interchange of courtesy which we could have had, had it been the middle of the session, or upon ordinary occasions. By his substitute, he made it necessary to pay one per cent. instead of one-half per cent., and made it necessary that the company should not occupy more than 640 acres of land, when the United States' law gives permission to occupy three miles square. He would increase the per cent. upon the House bills, and he would reduce the amount of land. And of that I complain as a wrong, as the three bills had passed from the Senate and through the House, in the manner proposed, in the first instance.

Then these three bills were the property of whom? Of none claiming any interests, or owning any property in the upper peninsula. They were got up for speculation by him, and for speculative purposes; and if it would not occupy the time of this Convention, I could fully satisfy every one of the character and reputation of this man, not only with regard to these bills, but with regard to other matters.

Mr. STOREY—I know, myself, nothing of the facts. I complain of the manner of the attack. It was uncalled for, and ungentlemanly. No sufficient provocation exists, in my opinion, to warrant such an attack upon a gentleman in his absence.

The consideration of the article entitled "Legislative Department" was resumed, and the question being upon inserting the words "at the time of the adoption of this Constitution," proposed by Mr. CRARY this morning.

Mr. McCLELLAND said—I move to strike out the whole, and will then offer a substitute.

The CHAIR—This is an amendment to an amendment; therefore it will not be in order at present.

Mr. McCLELLAND—I will give my reasons why I wish to offer a substitute. I wish to remove the objections which have been raised respecting the new counties having only a paper organization, if I can attain it by the use of the English language, and give to every county that is actually organized a Representative, and permit the Legislature to attach territory, and enable that county to send a Representative when it contains one-half the ratio established by the Legislature. I think this

is fair, and I desire it for this reason. If you adopt this proposition, you may prevent the Legislature from organizing new counties when it is necessary.

You should put some number of population in the Constitution which should require the Legislature to organize a county. For if you get up the prejudices of the people against the new counties, as may be done—although I think that the people of the old counties are liberally disposed at present, still a feeling might be got up for the purpose of avoiding any addition to the representation—the people of the new counties might have to wait until they attain a full ratio of representation as established by the Constitution.

Mr. KINGSLEY said—It is proposed by some to give to every county which is now organized, or which may hereafter be organized, one Representative. There is a reason why such a proposition should not succeed, which has not been mentioned. Gentlemen would be surprised to hear that there are one hundred and one counties marked out in this State. Does any one know there is not that number? There is not that number; but there are seventy-three counties in this State which are marked out and counted by law. It is provided that the number of Representatives, during the existence of this constitution, shall not be less than sixty-four nor more than one hundred. Now, it is plain, if we, in the next twenty or twenty-five years, have to supply one Representative to each county that may be organized, it will take seventy-three members to supply the demand, giving one member to each county. If the Legislature make counties hereafter as readily as they have heretofore—sometimes when they have only five or six hundred inhabitants—the Representatives will be drawn away from the old counties. The passage of the land bill now before Congress, or some other circumstance, may give a spur to emigration, and settle the northern counties of the State, so that they may all be organized; and counties having a few hundred inhabitants, within the next twenty years, will be entitled to a Representative—while the county of Wayne, which may have a population of one hundred thousand, will be entitled to one member as the number of Representatives now is; and the same may

be said of the other large counties. The injustice of such a state of things is evident.

Mr. K. said he would be as liberal to the new counties as any member. The Convention had been liberal; they had adopted the very provision that had been proposed by a member who desired to favor the new counties. But some members, living in the larger counties, are not satisfied; when the coat is asked for, they say, certainly, take it, and the cloak also.

The substitute proposed by the gentlemen from Ionia [Mr. LOVELL] seemed to be a fair one for the whole State, and the reasons given for the amendment were forcible. But (said Mr. K.) I object to voting for the amendment proposed by him, on the grounds upon which he asks the votes of those living on the line of the central rail road. He says the State has done much for *that part* of the State—that large sums of money have been expended there for which we are now indebted; and that the new counties are now taxed to pay the interest on money borrowed by the State, laid out in the southern part of it, and from which the more northern counties receive no benefit. The gentleman is mistaken in this position. The State owes nothing for money expended in the construction of the central rail road—or, in other words, the road has been sold for as much as it cost. The State has not only been made whole by the sale of the road, but, by the terms of the contract of sale, the purchasers now pay into the treasury of this State forty-five thousand dollars a year, as a tax upon the road and the property attached thereto. The gentleman has reference to the expenditure of the five million loan. Had no part of that loan been more improvidently laid out than that which was expended in constructing the central rail road, the State would not now be embarrassed by debt. Two millions of dollars of that loan have been lost to the State—sunk—gone—and where has it gone? I could tell the gentleman. I remember the history of the times when the extravagant and foolish expenditures were made. Over seven hundred thousand dollars were thrown away upon the canal at the north, the northern rail road, and other projects equally profitless in the north.

and other parts of this State. No part was thrown away upon the central rail road. No, we are taxed to pay the interest on this lost money, who have received no benefit from its squanderings; but we are willing to be so taxed. It was the misfortune of the times that so much money was expended profitlessly, and we are willing to share in the misfortune. It is frequently claimed that those living on the central rail road are under great obligations to other parts of the State for the construction of that road. Those who think so are in an error. There was a private charter granted for the building of that road, and it was partly built before obtaining the loan. The road would have been constructed without the aid of the State.

Mr. LOVELL—I do not mean to say that all the money has been lost, for the Central rail road brought nearly what it cost; but there was a loss. The five million loan was procured—the money is gone, and we are in debt for it.

Mr. KINGSLEY—As far as the Central rail road is concerned, we have lost but little, as it has paid \$45,000 into the treasury. I could tell the gentleman where the two millions have gone. It was done by the joint action of northern and southern votes, that were tied together, vote after vote, vote after vote, as can be seen by reference to the journals; and when we knew that the money must be sunk. I told them that they might as well throw the money in the Detroit River as lay it out on the Southern rail road. But the north must not say that they have to pay for what they did not vote.

Mr. BACKUS—I have listened to this discussion with much interest, for it involves considerations of the gravest importance, as moulding the representation of the State, and which will guide, control, govern and manage our policy hereafter. It is important in every point of view; and every member, I trust, feels this importance, or otherwise it would not have elicited so much discussion; and we should well consider the measures to be adopted, as we shall thus fix the future policy of the State. I have listened to the claim set forth as to the rights and claims of the new counties of the State to representation; and I would urge upon the consideration of this Convention, that we should not only be just

but generous. The provision of the bill, as it originally stood, was generous; it was more than generous.

I assume, for the purpose of discussion, that the ratio of representation, as provided by the section under consideration, will be eight thousand. If so, the present proposition proposes to give the new counties the diminished ratio of two thousand, which is tantamount to giving the new counties four Representatives, to one in the old counties. I submit this is extra liberal. What do they seek to have represented here? Do they seek that the rocks and trees and rivers should be represented here, as stated by the gentleman from Calhoun? Call it then by its right name. Call it a representation of rocks, or of trees or of rivers. Let every 80 acres of land poll its vote in the State, by proxy; for by the term representation, you must have some standard by which to be guided; property or persons.

The policy at present is that population should form the basis of representation—individuals—people—not territory. For the argument's sake, I accord the principle; and what will be the effect? If there is in a county fifteen inhabitants, those fifteen have the same power and control over local and general matters in your Legislature, that 7000 or 8000 people have, located in the more densely peopled portion of the State. Is this right?

One of the first maxims that I learned—and I have seen no reason to depart from the rule—was that "justice is equality." Do gentlemen seek more than equality, or do they want a population of ten or one hundred, purporting to be organized, to claim at the hands of your Legislature the reception of a Representative?

They tell of vast improvements that will be made by the Representatives bringing to us favorable reports of their counties—that they will further stimulate the increase of population by holding out the fact that they are represented. Should that be the policy, Mr. Chairman—should you deprive the people of their representation in the councils of the State because, forsooth, there happens to be a district of country without people, that you want, for its improvement, to be represented, without regard to the number of people that inhabit it?

Sir, it contains all the odious features that were incident to the English rotten borough system, and that was unjust, unholy and unrighteous in its principle, where one, five or ten men could send a man into the Parliament of Great Britain to exercise the same influence there that another did who was sent by 10,000; and yet this system is asked of us by the proposition now under consideration. With them I have the highest sympathies. But they ought to be fair; they ought to concede something like equality. Are they equal in population? They don't pretend that they are. Are they equal in property? Look at your tax-rolls, and you will be convinced to the contrary. Is representation to follow property or persons? If property is to be represented, let it be so, and call it so. If property, then 80 acres of the non-resident lands have a right to a vote. If people, should they not be content with a four-fold representation. If they have the ratio for representation, they are entitled to it; but we offer them three or four to one. We can only learn one fact—that they are new counties; but can any argument be drawn from that fact? If there is a county that has 500 inhabitants, I should like to hear any argument, either logical or based upon common sense, that would prove, because they happen to live in a particular district of the country that is new, they are entitled to a Representative, while in another portion of the same community, unless they have 7000, they cannot be heard.

Strong objections have been made to the propriety of attaching territory to the new counties. Where is the hardship? It is alleged that whatever the more populous county to which country is attached desires, it will prevail, and leave the attached district overwhelmed by a majority. This is the law of majorities, and the fact is simply this, sir, that the majority of voters are in that part of the district. The moment that, in the territory attached, the population preponderates over the county to which it is attached, it can send to this Hall the person they choose; until then the majority prevails elsewhere. And so it should be. What brings us here? It is, sir, because we hold in our hands the evidence that we were sent by a majority of the people in our respective counties; so the

same rule is applied to us as to them. But it is urged that representation will increase the population in the new counties. Will a Representative develop the resources of the county by building mills, or by agricultural pursuits? How will it be done more than by any other man? But, it is said he will give us information. So will every adventurer who goes there; and population will only be induced to go when they are satisfied that they will obtain the greatest reward for their labor.

I will go as far as I consistently can; I will be what I deem liberal; but I cannot vote without further information, as there is not evidence before this Convention that in one of these new counties thus proposed to be represented, there is a population of three hundred. If this Convention say that every organized county shall have a Representative when it has a population of 300, we shall know what it means; and it is a proposition that I don't say I shall not go for; but to leave it uncertain, indefinite, when the population may vary from 50 to 5000, is what I must object to. If there is any reason for admitting the counties that are now organized, the same reasons will apply in favor of the counties hereafter to be organized; and yet, by the amendment, a county that is unorganized to day, might increase her population to a quota to morrow, and yet would be excluded until the year 1859. But there is no reason, no propriety, that an independent district of country should send a Representative without reference to its population. That sanctions the principle that the district shall be represented, not the people; and at the same time the constituency might not exceed fifteen in number.

Would it not be fair to prohibit the Legislature from admitting a Representative until there is a reasonable number of people? Cannot the Convention itself fix the number? If the population increases so rapidly, they will soon reach it, and be entitled to a Representative. But suppose the counties cannot be admitted, what injury do they suffer? Are they not represented in common with the country to which they are attached?

I have yet to learn that the interests of one portion of the State are diverse from that of another, or that we meet here for

ought but the common welfare. Are our Representatives, that in future we elect, to be bound by the narrow prejudices of representing towns? If so, by carrying out the principle, if we give a county one Representative, but a small portion will actually be represented.

The gentleman [Mr. CHURCH] says that one person cannot represent Newaygo and Kent—that their interests are diverse. He should have found out their interests, or he has no business here purporting to represent them. But I know that he has liberality of mind enough to embrace Newaygo as well as the county of Kent in the discharge of his duties. The effect will be that we must increase the ratio, or increase the number of the House of Representatives, by assuming this extra liberality to the new counties. They say they may be misrepresented; but they suffer no wrong. We sometimes think that we are misrepresented by our legislators; but we bow submissively to the will of the majority.

The provision made by the committee of the whole, making 2,000 the number of the population requisite in the new counties, while in the older it requires a ratio of 3,000 for one Representative, I say is liberal enough; and to seek for more is unjust in theory and fact, and would contain a provision perfectly unsound.

In Connecticut, all towns organized after a certain date have but one Representative, while the older towns have two—the reverse of the present proposition. But we have no right to barter away a trust by giving representation to woods, trees and wolves, when you have men who pay your taxes. If the State is assailed, who will defend it? Not the unpeopled counties; but you must come where the people are who, in addition, pay all the taxes that support your State. If the lands should be represented, the voters are in New York, partly, and scattered abroad, perhaps, in every State in the Union. But do not have the rotten borough system when the principle should be that men only should represent men.

Mr. MASON—By the act of the Legislature, the five counties of the upper peninsula have all the privileges of organized counties. Then the moment this proposition is carried, they will be entitled to a

Representative—and yet, in the whole five counties they only cast 227 votes.

Mr. HANSCOM—I wish to make a statement respecting the population of the five counties:

Houghton has	1,800 to 2,200
Ontonagen	900 to 1,100
Schoolcraft	400 to 500
Marquette	800 to 900

With respect to the 227 votes being cast, I would remark that the population is very much scattered, so that it is impossible to obtain a full turn out of the voters. A proportion of the population, too, are foreigners, who are engaged in mining, who may become voters, and, at any rate, should have some legal rights. I think that the statement I have made that there are 3,500 to 4,000, is not far from the fact.

Mr. J. D. PIERCE—Houghton is the only organized county in the upper peninsula, except Chippewa.

Mr. WILLIAMS—I want full information—no attempt at smuggling, as we have, or are supposed to have, a treasury here.

Mr. J. D. PIERCE—It is said that the other counties have the privileges of organized counties, but they are attached for representative purposes to Chippewa.

Mr. WOODMAN—When the subject was first brought up, I felt myself bound to act liberally—give each new county one Representative. I still think the same, and I must say that I prefer the proposition of the member from Monroe.

Mr. MASON—I would inquire of the gentleman from Oakland if he is correct about the number being 3,000 or 4,000? I think he cannot have good grounds of information; it cannot be possible that there is that number in the northern peninsula, when they only show a return of 227 voters.

Mr. HANSCOM—They vote all one way there, so there is no use making any particular effort.

Mr. MASON—They come here with two certificates—

Mr. CRARY called the gentleman to order.

The CHAIR—The gentlemen from St. Clair is out of order, calling in question the right of a member to his seat in this House.

Mr. MASON—I have done no such thing. I trust that I may give a state-

of facts that exist in the State departments, without being called to order. I have said nothing about their rights, nor do I desire to do so. I repeat that I do not think it probable that there can be a population of 4,000, when they poll but 227 votes. The gentleman from Chippewa refuses to give us light, will tell us no facts, while we are compelled to give our votes upon the question without being able to ascertain whether these four counties will send four members, and only poll 227 votes, when they should have a population of 10,000 to entitle them to it. I hope, as the gentleman has suggested, we shall leave the upper peninsula alone until we have the report of the committee.

The question being upon inserting the words "at the time of the adoption of this constitution," proposed by Mr. CRARY, the yeas and nays were demanded, and the amendment was lost, as follows:

YEAS—Messrs. Arzeno, Beardsley, Bush, Chapel, Church, Danforth, Hanscom, Lovell, Orr, Rix Robinson, Soule, Sturgis, Walker, Webster—14.

NAYS—Messrs. W. Adams, Alvord, Anderson, Axford, Backus, Bagge, Barnard, H. Bartow, Beeson, Britain, Alvarado Brown, Ammon Brown, Asahel Brown, Burns, Butterfield, Carr, Chandler, Choate, J. Clark, S. Clark, Comstock, Conner, Cook, Cornell, Crary, Crouse, Daniels, Desnoyers, Dimond, Eastman, Eaton, Edmunds, Fralick, Gale, Gardiner, Graham, Green, Hart, Harvey, Hascall, Hathaway, Kinne, Marvin, Mason, McClelland, McLeod, Moore, Morrison, Mosher, Mowry, Newberry, O'Brien, J. D. Pierce, N. Pierce, Prevost, Redfield, Robertson, E. S. Robinson, Skinner, Storey, Sullivan, Sutherland, Tiffany, Town, Van Valkenburgh, Wait, Warden, Wells, Whittemore, Williams, Willard, Witherell, Woodman, President—74.

Mr. LOVELL moved to strike out the balance of the amendment made in committee, and insert the following:

"Provided, That each county having an organized county government, and the territory attached thereto, shall be entitled to one Representative; and that each county hereafter organized, and the territory attached thereto, if any, shall be entitled to a separate Representative when it shall have attained a population equal to a moi-

ety of the ratio of representation heretofore established."

Mr. SKINNER would inquire how many Representatives would be given to the upper peninsula? I wish the gentleman to explain.

Mr. LOVELL—I should prefer referring him to the gentleman who represents the upper country. The want of knowledge in that quarter is the only thing that has given me the least uneasiness. I will inform the gentleman, as far as I can, respecting the lower peninsula. It will give a member to Sanilac, which has a population of from two to three thousand, one to Montcalm, with a population of nearly two thousand; Midland, the amount of population I do not know; Newaygo is not an organized county. I am not certain, but I believe that, by the amendment, Mackinac and Chippewa would lose their Representative.

Mr. ROBERTS—As the Representative from Chippewa, he begged leave to say that he hoped the Convention would except the upper peninsula until the committee made their report.

Mr. CORNELL—I see the member from Chippewa is in his seat. We wish him to give the information that we so much need. I feel bound to call for it, so that this Convention can take action.

Mr. BRITAIN moved to amend the amendment of the committee of the whole by inserting after "county," the words "with such territory as may be attached thereto;" which was decided not in order.

A division of the question was had, and the motion to strike out prevailed, by the following vote:

YEAS—Messrs. Anderson, Axford, Backus, Bagge, H. Bartow, Beardsley, Beeson, Britain, Alvarado Brown, Ammon Brown, Butterfield, Carr, Chandler, Chapel, S. Clark, Comstock, Conner, Cook, Cornell, Daniels, Desnoyers, Eaton, Fralick, Gardiner, Graham, Harvey, Hascall, Hathaway, Kingsley, Marvin, Mason, McClelland, Moore, Mosher, Newberry, N. Pierce, Redfield, Robertson, E. S. Robinson, M. Robinson, Skinner, Storey, Sullivan, Tiffany, Town, Van Valkenburgh, Wait, Warden, Wells, Whittemore, Williams, Witherell, Woodman, President—54.

NAYS—Messrs. W. Adams, Alvord, Arzeno, Barnard, Burns, Bush, Choate,

Church, J. Clark, Crary, Crouse, Danforth, Dimond, Eastman, Edmunds, Gale, Hanscom, Hart, Kinne, Lee, Lovell, McLeod, Morrison, Mowry, O'Brien, Orr, J. D. Pierce, Prevost, Roberts, Rix Robinson, Soule, Sturgis, Sutherland, Walker, Webster, White, Willard—37.

The amendment was then adopted, as follows:

YEAS—Messrs. Alvord, Anderson, Arzeno, Axford, Barnard, H. Bartow, Beardsley, Beeson, Britain, Alvarado Brown, Ammon Brown, Asahel Brown, Burns, Bush, Carr, Chandler, Chapel, Choate, Church, J. Clark, Comstock, Conner, Cook, Cornell, Crary, Crouse, Danforth, Daniels, Desnoyers, Dimond, Edmunds, Gale, Gardiner, Graham, Green, Hanscom, Harvey, Hascall, Hathaway, Kingsley, Kinne, Lee, Lovell, Marvin, Mason, McClelland, McLeod, Morrison, Mosher, Mowry, Newberry, Orr, J. D. Pierce, N. Pierce, Prevost, Redfield, Roberts, Robertson, M. Robinson, Rix Robinson, Skinner, Soule, Sturgis, Sullivan, Sutherland, Tiffany, Town, Van Valkenburgh, Wait, Walker, Warden, Webster, Whittemore, Williams, Willard, Witherell, Woodman, President—78.

NAYS—Messrs. W. Adams, Backus, Bagg, Butterfield, S. Clark, Eastman, Eaton, Fralick, Hart, Moore, Storey, Wells, White—13.

And the amendment as amended was then concurred in.

The third amendment to the article was concurred in. The fourth amendment being under consideration,

Mr. HANSCOM moved to strike out "thirty-two," and insert "twenty-two."

A division of the question was called, and the motion to strike out lost by the following vote:

YEAS—Messrs. Alvord, Axford, Barnard, H. Bartow, Beeson, Butterfield, Chapel, Church, J. Clark, Hanscom, Hart, McLeod, Mowry, Newberry, Orr, J. D. Pierce, N. Pierce, Roberts, E. S. Robinson, Rix Robinson, Sturgis, Warden, Webster, President—24.

NAYS—Messrs. W. Adams, Backus, Bagg, Beardsley, Britain, Alvarado Brown, Ammon Brown, Asahel Brown, Burns, Bush, Carr, Chandler, S. Clark, Comstock, Conner, Cook, Cornell, Crouse, Danforth, Daniels, Dimond, Eaton, Edmunds,

Fralick, Gale, Gardiner, Graham, Green, Harvey, Hascall, Hathaway, Kingsley, Kinne, Lee, Lovell, Marvin, Mason, McClelland, Moore, Morrison, Mosher, O'Brien, Prevost, Redfield, Skinner, Sullivan, Tiffany, Town, Van Valkenburgh, Wait, Walker, Wells, White, Whittemore, Williams, Willard, Witherell, Woodman—57.

Mr. MORRISON moved to amend the amendment by striking out the last clause, being all after the word "inclusive," in the second line.

Pending which, on motion of Mr. GARDINER, the Convention adjourned.

MONDAY, (30th day,) July 15.

The Convention met pursuant to adjournment, and was called to order by the PRESIDENT.

Prayer by the Rev. Mr. TOOKER.

Mr. CHURCH moved to amend the journal of Saturday, by striking out the following:

"Mr. BRITAIN moved to amend the amendment of the committee of the whole, by inserting after 'county,' the words 'with such territory as may be attached thereto.'"

"Which was decided not in order."

Mr. BRITAIN wished to have a vote of the Convention upon the motion. It was due to the Secretary to say that it was inserted at his [Mr. B's] request. He [Mr. B.] believed every measure originated by a member should go on the journal. He saw no reason why the journal should not be a true record of the proceedings. There could be no reason why one-half should be struck out.

Mr. HANSCOM said there was much force in the observation of the gentleman from Berrien, [Mr. BRITAIN.] Two other propositions were offered and not placed on the journals. If the proposition of the gentleman from Berrien should remain on the journal, he should press for the insertion of those propositions.

The CHAIR said, only matter which had been acted upon by the Convention ought to be entered upon the journal, under the parliamentary rule. To bring matter on the journal which had been ruled out of order might create great difficulty.

The journal was so corrected.

PETITIONS.

By Mr. BACKUS: of H. Eisnack and 20 others, naturalized citizens, praying that the elective franchise may not be extended to foreigners, until they shall have been regularly naturalized as required by existing laws.

Laid upon the table.

By Mr. WHITE: of C. A. Shaw and 103 others, citizens of Lapeer, Oakland and Macomb counties, in relation to equalization and collection of taxation.

REPORTS.

Mr. BUSH, from the committee on township officers and township government, submitted

ARTICLE —.

Township Officers and Government.

1. The duties of each organized township shall be performed by one supervisor, one township clerk, one school inspector, not exceeding four justices of the peace, and not exceeding four constables. The Legislature shall provide for their election and define their respective duties.

The article was read the first and second time by its title, referred to the committee of the whole, and ordered printed.

RESOLUTIONS.

Mr. HANSCOM offered a resolution that after this day the daily morning sessions of this Convention shall commence at half-past seven o'clock.

Mr. H. believed that gentlemen could make arrangements to meet at that time. The morning was the best part of the day to labor. He believed the Convention would be able to do more business between half-past seven and half-past eight, than in two hours in the middle of the day. He hoped the resolution would be adopted.

Mr. WHITE moved to insert "six o'clock."

Mr. WITHERELL saw no reason why the resolution should not be adopted, if members could attend at that time; as the gentleman from Oakland had observed, it would be pleasanter to meet at an early hour. It would be in accordance with our business at home, and he [Mr. W.] was disposed to attend to the public business at the same time. It would add one hour daily for public business, and hasten the proceedings of the Convention.

Mr. J. BARTOW—If the gentleman from Wayne would commence early in a

morning and continue all day, he would only come up to the modicum of his portion of labor; I think the gentleman should come earlier and stop later than the rest to make up for lost time; and if we were like the gentleman from Oakland, could work all day and sit up all night, we might adopt it; but as we have not that capability, I move to lay the resolution on the table.

The motion was lost.

Mr. WHITE thought there was an evident impropriety in requiring members to meet at that hour. It was well known that several of the delegates boarded at a distance from the capitol. It was more than they could do to arrive here at the time proposed.

Mr. J. D. PIERCE was in favor of the motion, but it did not go far enough. It would be better to do our business in the dark. Darkness was best. It would be better to meet at four o'clock. He moved to strike out "half-past seven," and insert "four."

Mr. BAGG—I hope the amendment will not prevail. The gentleman from Calhoun [Mr. PIERCE] says he wants to do business in the dark. I am opposed to every thing of that kind. A gentleman said the other day, when speaking on single districts, he would *split up the people*. Split them up? I object to my constituents being split up in the dark, anyhow.

The amendments were negatived, and the resolution adopted.

Mr. CHAPPEL offered a resolution that the afternoon sessions of the Convention commence hereafter at two o'clock.

Mr. GALE moved to amend by inserting "one."

Mr. ALVORD moved to insert "half-past twelve."

On motion of Mr. AXFORD, the resolution was laid on the table.

Mr. STOREY moved to amend rule 8 by striking out "one hour," and inserting "five minutes;" so that it would read: "no member shall speak more than twice on the same question, nor more than five minutes at any one time, without the consent of the Convention."

Mr. W. ADAMS moved to lay the resolution on the table; which was carried.

Mr. AXFORD offered the following preamble and resolution:

Whereas, This Convention did adjourn

on the 29th day of June last past, until the 9th day of July instant, therefore, in the opinion of this Convention, it would be unjust to the tax payers of this State for the members or officers of this Convention to receive any pay from the public treasury of this State during said adjournment; therefore,

Resolved, That for and during said adjournment, no member or officer of this Convention is justly entitled to or should receive any pay during said adjournment, and that no money shall be drawn from the public treasury of this State for that purpose.

Mr. AXFORD called for the yeas and nays, and demanded the previous question.

Mr. J. D. PIERCE moved to indefinitely postpone.

Mr. CLARK rose to a question of order—whether the last motion could be entertained after the previous question was demanded.

The CHAIR said, had the gentleman asked for the yeas and nays, and there stopped, the CHAIR would have sustained it; but he called for both.

Mr. VAN VALKENBURGH moved to amend the resolution by adding the following:

Resolved, That the time members of this body have spent unnecessarily out of the Convention during its sessions, shall be deducted in the estimate for their per diem allowance.

Mr. AXFORD withdrew the preamble and resolution.

Mr. VAN VALKENBURGH renewed them with the addition of his resolution.

On motion of Mr. AXFORD, the preamble and resolutions were indefinitely postponed.

Mr. WOODMAN offered the following:

Whereas, It has been formally announced to this Convention, that General ZACHARY TAYLOR, late President of the United States, departed this life on the evening of the 9th inst;

And whereas, Not only the distinguished position, but the virtues of the man whose death has been thus announced, challenge from us and the whole American people, deep sorrow for the National bereavement; therefore,

Resolved, That as a "testimonial of the

deep and profound respect for the memory of the deceased," and in accordance with a long established usage, that a committee of be appointed by the President of this Convention to procure some suitable member of this body to pronounce an eulogy on the "life and public services of General ZACHARY TAYLOR, late President of the United States."

Resolved, That said committee be and hereby are instructed to make the suitable arrangements as to time and place, and report to this Convention in due time.

The blank was filled with "nine;" and the preamble and resolutions adopted.

The unfinished business of yesterday was taken up. The matter under consideration, being the amendments made in committee of the whole to "Article —, Legislative Department;" and the question being on a motion to strike out the last clause of the amendment to section five: "No county shall be divided in the formation of Senate districts, except such county shall be equitably entitled to two or more Senators."

Mr. CHURCH moved to amend the amendment by striking out all after the word "districts."

Mr. C. thought it should stand as proposed to be amended; he saw no necessity for making a distinction between old and new counties.

Mr. COOK—If the amendment prevail, the Senators would be elected by general ticket, in large counties. Wayne would have three members combined in a district. If we have single districts at all, the principle should be carried out. It would certainly give more power to large counties than the new. They would naturally have larger power on account of their numbers.

Mr. BAGG would like to know how a single Senatorial district would be affected by the county of Wayne being divided or split up; what difference would it make to any other county, how the Senators in Wayne county were elected? It can only affect the district in which they are elected. The laws passed by the Legislature must be of a general character. Local legislation is about being given to the boards of supervisors. He hoped gentlemen would not get up those prejudices between big and little counties. It could not have any

different effect in any new county, whether Senators in the large counties are elected by general ticket or in single districts.

Mr. FRALICK believed, if the motion prevailed, the effect would be a little different from what the gentleman expects. The State shall be divided into thirty-two districts; you can but elect one in a district. If you cannot divide a county, they can have but one Senator. That appeared to him to be very unjust.

Mr. WALKER—If the motion of the gentleman from Kent [Mr. CHURCH] should prevail, the Senators in any county, which by its population would be entitled to more than one Senator, would be elected by general ticket. It would give to a county entitled to a single Senator, the right to elect without combination with any other county. In counties where they elect more than one, it would allow the people to elect them as Senators of the county. They would be Senators of counties, except where the population of counties do not entitle them to a Senator, and they are grouped together.

Mr. WILLIAMS called for the ayes and noes.

Mr. MASON supposed that the Convention understood that, as the amendment stands, if it should be adopted, it would leave the large counties with but one Senator.

The motion to amend, made by Mr. CHURCH, was negatived, as follows:

YEAS—Messrs. Arzeno, H. Bartow, Church, Danforth, Hart, Hathaway, Rix Robinson, Sturgis—8.

NAYS—Messrs. W. Adams, Alvord, Anderson, Axford, Backus, Bagg, Barnard, Beardsley, Beeson, Britain, Alvarado Brown, Ammon Brown, Asabel Brown, Burns, Bush, Butterfield, Carr, Chandler, Chapel, Choate, S. Clark, Comstock, Conner, Cook, Cornell, Crary, Crouse, Daniels, Desnoyers, Dimond, Eastman, Eaton, Edmunds, Fralick, Gale, Gardiner, Gibson, Graham, Green, Hanscom, Harvey, Hascall, Hixon, Kingsley, Kinne, Lee, Marvin, Mason, McClelland, Moore, Morrison, Mosher, Mowry, Newberry, O'Brien, Orr, N. Pierce, Prevost, Robertson, E. S. Robinson, Soule, Storey, Sullivan, Tiffany, Town, Van Valkenburgh, Wait, Warden, Webster, Wells, White, Whipple, Whittemore, Williams, Willard, Witherell, President—77.

The question recurring on Mr. MORRISON's proposition,

Mr. MASON was opposed to striking out; he saw no necessity for it. It was made under an impression that the larger counties would not be entitled to an equitable share. If the same construction be put upon the clause as under the old constitution, where there should be a moiety, they should be entitled to another member. There is no necessity for the amendment. There would be a difficulty in cutting up county lines. The part cut off will be alienated and estranged from the county. Innumerable difficulties will arise in their county politics, especially in their Senatorial politics.

I cannot think (said Mr. M.) that any gentleman from a large county will consent to have a part of its population cut off and associated with another county.

Mr. WELLS moved to strike out of the third line, the word "equitably."

Mr. COOK said the gentleman would find the word in one or more constitutions. It was intended to cover the moiety principle where they will not be fully entitled to a member.

The amendment offered to the amendment of the committee of the whole was lost. The amendment reported by the committee of the whole was concurred in.

Sec. 7. Substitute reported by the committee of the whole was read:

"No person holding any office under the United States or this State, or any county office, (notaries public, officers of the militia and officers elected by townships excepted,) shall be eligible to, or have a seat in, either house of the Legislature; and all votes given for any such person shall be void."

Mr. MORRISON moved to amend by inserting after the words "county office," the words "or the office of supervisor of a township."

Mr. M. said he offered the amendment for the reason that it is proposed to make the supervisors of a county, to a greater or less extent, a legislative body. Their duties in a county may conflict with the duties of a legislator. They may both be in session at the same time.

The amendment was lost.

Mr. CHURCH moved to amend the sec-

tion by inserting after the word "militia," the words "post masters."

Mr. COOK—Is the object of the gentleman to exclude post masters?

Mr. CHURCH—My object is not to exclude post masters from the Legislature. I cannot say, shut them out. I do not think there is any equity in it. There are a few large post offices. Those holding them would hardly be likely to be candidates for the Legislature; but post masters, where the duties are small, should not be excluded from the Legislature, such as the gentleman from St. Clair, [Mr. J. CLARK.] I should like to know if there be any reasons, based on the discharge of their duties to the United States, that should exclude them. The holding of many of the post offices is an actual favor to the inhabitants; the emoluments of the office not paying for the trouble. That is the case through half the State. To exclude those post masters merely because they are post masters, on the mere cry, "shut them out," I think not right.

Mr. J. BARTOW said—I take great pleasure in supporting the motion. I am surprised to hear that a gentleman of the experience of the gentleman from Calhoun, should say, "shut them out." How will the duties of post masters interfere with legislative duties? What obligation will they enter into to the State that will interfere with their duties as post masters? They do not conflict in any shape. If they neglect their duties by coming to the Legislature, the general government alone can take cognizance of it.

It is true, (said Mr. B,) to my certain knowledge, that in a large portion of my section of country, as stated by the gentleman from Kent, the post masters hold not for the emoluments, but for the accommodation of the inhabitants; and they are the very persons we should like to see as members of the Legislature. Every post master is required to have a deputy. To say they shall be taken from the hands of the public and disfranchised, would be unjust in the highest degree. We should do an injury both ways; it would deprive them of their natural rights, and deprive the people of the valuable services of able men.

Mr. CRARY said he should not have risen if he had not been called upon for

his reasons for excluding post masters. For the six years ending in 1841, more than 300 post masters were appointed in Michigan, and in very few instances were there less than two candidates for each office. He did not recollect of a single instance of refusal to accept the office. He would disconnect the office of Representative from every United States' office, for the purpose of keeping the attention of the Representative, as much as possible, confined to the particular business of a State government. This could not be done if the officers of the United States were allowed to enter the halls of a State Legislature, and interfere with domestic legislation. Many of these offices were highly lucrative, and the incumbents would generally look to the power whence they derived their chief emoluments. The office of post master was often more lucrative than any county office. If the county officer is to be excluded, then the post master should be also.

If the duties of a county officer are incompatible with a seat in the Legislature, so are the duties of the office of post master. Post masters have franking privileges, are appointed for political purposes, and by their position can exert more influence than any county officer. There are men enough without them, who can serve the State in all matters of legislation. Many of the post masters receive large salaries.

Mr. WILLIAMS asked who of the post masters receive more than \$200 annually.

Mr. CRARY—Many, but I cannot enumerate them all.

Mr. WILLIAMS—There are not more than 20 in the State.

Mr. CRARY—If only 15, they ought to be excluded. Why exclude deputy marshals, revenue officers, and light house keepers, and retain post masters? All should be excluded. No United States' officer should be allowed a seat in the Legislature. Cut off post masters, and all are excluded.

Mr. HANSCOM believed there was as much necessity for the exclusion of post masters as for the exclusion of any county officer; in fact, there was more absolute reason for their exclusion, however great or small their emoluments. Contests may arise between the State and the general

government, especially respecting the rights of sovereignty. It is familiar to all that the cohort of post-masters owe a sort of allegiance to the United States government for the time being. Evils have arisen in other States, and persons attached to the general government should not be placed in any situation to affect the interests or rights of the State in such cases.

One argument why they should not be excluded is, that they are a respectable and valuable class. But are not our county officers as respectable as post-masters? They say they hold this office for the accommodation of the people. Sir, there are not ten post offices in the State but there are quarrels to get them—contentions for them.

Let them take this office on condition that they exclude themselves from the Legislature of the State. The case is isolated where there are not a dozen or fifty men capable of holding the office of legislator. There are cases where they get four times as much compensation as they can receive for services as legislators. I believe (said Mr. H.) in disconnecting the legislation of the State from any office under the general government.

Mr. VAN VALKENBURGH regretted to dissent from his colleague, for whose opinions he entertained much respect; but he believed it would be invidious to exclude post-masters from the halls of legislation. It is known that a large majority of these officers in our peninsula get but a small pittance for their services. How the duties of a post master can conflict with his duties as a member of the Legislature, he [Mr. VAN V.] could not conceive. It must be admitted that in some districts it is difficult to get persons to take the office, the emoluments being so small. Those persons should not be excluded; they are the very best persons to represent the people.

Mr. WILLIAMS—I had a commission sent me, and declined it. If I had accepted it, I should not have been less competent to perform my duties in this Convention. I do not think there are more than a dozen or fifteen post-masters in the State who receive for their services two hundred dollars a year. He did not pretend to entire accuracy, however. He had sent for a book containing the list.

Mr. BUTTERFIELD—There are some considerations why the amendment should be adopted, if the new counties should be entitled to Representatives. It is well understood by those acquainted with the localities, that there are individuals in those localities who would take the office for the convenience of the inhabitants—who would take it on no other consideration. Those, perhaps, are the very men whom the people of the county would choose to send to the Legislature. I do not (said Mr. B.) see the force of the argument of the gentleman from Oakland.

Mr. HANSCOM—Have they not advantages over other classes? Have they not more privileges?

Mr. BUTTERFIELD—I think not. It may be the case in large towns, but not in small ones. For electioneering purposes, there are some that possess more facilities than post-masters. If one exception should be made, I hope it will be made in favor of my friend from St. Clair, [Mr. J. CLARK.] He is the only remaining monument of the sagacity of Jackson's administration.

He has survived the wreck of matter of the political world. His services in the Convention that framed the Constitution, and in the Senate, have been almost invaluable to the State. Shall he be excluded? He is one of our most valuable members. From the simple fact that he holds a remote post office, shall the State be deprived of his services? So long as he remains, I hope he will remain post master; and at the same time the State may demand his services here or elsewhere.

Mr. S. CLARK called for the previous question, which was sustained; and the amendment offered by Mr. CHURCH was negatived:

YEAS—Messrs. W. Adams, Barnard, J. Bartow, Beardsley, Asahel Brown, Bush, Butterfield, Chandler, Church, S. Clark, Comstock, Cook, Cornell, Crouse, Desnoyers, Dimond, Edmunds, Gale, Green, Hart, Hascall, Lee, Lovell, McClelland, Newberry, N. Pierce, Prevost, Redfield, E. S. Robinson, Rix Robinson, Storey, Sutherland, Tiffany, Town, Van Valkenburgh, Wait, Wells, Whipple, Williams, Woodman—40.

NAYS—Messrs. Alvord, Anderson, Arzeno, Axford, Backus, H. Bartow, Beeson,

Britain, Alvarado Brown, Ammon Brown, Burns, Carr, Chapel, Choate, Conner, Crary, Danforth, Daniels, Eastman, Eaton, Fralick, Gardiner, Gibson, Graham, Hanscom, Harvey, Hathaway, Hixon, Kingsley, Kinne, Marvin, Mason, Morrison, Mosher, Mowry, O'Brien, J. D. Pierce, Robertson, M. Robinson, Skinner, Soule, Sturgis, Sullivan, Walker, Warden, Webster, White, Whittemore, Willard, Witherell, President—51.

The substitute proposed by the committee of the whole for section 7 was then concurred in.

Mr. WILLIAMS would take the opportunity to explain. He held in his hand a book published by the P. O. Department. In 1847, there were twenty-eight post masters who received over \$200.

The amendments made in committee of the whole to section eleven were concurred in.

Mr. BRITAIN moved a reconsideration of the vote. He thought it too much to require one-fifth of the members elected to sustain the call for the yeas and nays, when a bare quorum might be present.

Mr. COOK explained. Each House may adopt by rule what number they please; being a less number than one-fifth. This would be a constitutional privilege.

The motion to reconsider did not prevail.

Section 17 was read.

Mr. J. BARTOW moved to strike out the last clause: "The Legislature shall not, at the expense of the State, provide for its members books, newspapers, or other perquisites of office not expressly authorized by this Constitution."

Mr. B. said, the same section has already limited the expenses of that kind to the sum of five dollars, during any one session. It seems the clause is entirely superfluous, the whole subject being embraced in the foregoing provision.

Mr. BRITAIN—The gentleman will see that the previous clause does not prevent the Legislature appropriating themselves books. It has been common for members to furnish themselves with law libraries, at great expense to the State, and disadvantages to the people.

Mr. BARTOW would say, if such an evil exists, it is not for want of this clause.

The law does not authorize the appropriation of such a superfluous number of the session laws as would justify the assertion of the gentleman from Berrien. It is enough for me to say (said Mr. B.) that such a number of the laws are published as will supply each member with copies from year to year. If it only goes to this, I see no force in it. If it was to prevent taking session laws, it might be proper; but it might be remedied by publishing a less number.

It is not a proper clause in the Constitution. A contingency may arise, in which it may be proper to have more furnished. To assume that we shall have to furnish the Legislature with the periodicals and romances of the day would be a reflection on the dignity of the State; but it would not be objectionable to furnish this Convention with the constitutions of other States. I have no fear of the Legislature. As for the other term in the clause, "perquisites of office," there is another term for it—"stealings in,"—which is understood to be synonymous. I wish to keep anything about "stealings in" out of the constitution.

Mr. BRITAIN—I do not wish to say what the "stealings in" may mean; but I wish to cut it off. I would allow members a copy of their own session laws. I wish to cut them off from spending their time about those "stealings in," which amounts to more than what they obtain.

The question was taken on striking out and lost:

YEAS—Messrs. Alvord, J. Bartow, Butterfield, Carr, Hanscom, Roberts, Storey, Sutherland, Van Valkenburg, Whipple—10.

NAYS—Messrs. W. Adams, Anderson, Arzeno, Bagg, Barnard, H. Bartow, Beardsley, Beeson, Britain, Alvarado Brown, Ammon Brown, Asahel Brown, Burns, Chandler, Chapel, Church, S. Clark, Comstock, Conner, Cook, Cornell, Crouse, Danforth, Daniels, Dimond, Eaton, Fralick, Gale, Gardiner, Gibson, Graham, Green, Harvey, Hascall, Hathaway, Hixon, Kingsley, Lovell, Marvin, Mason, McCelland, Moore, Morrison, Mosher, Mowry, Newberry, O'Brien, N. Pierce, Redfield, Robertson, E. S. Robinson, M. Robinson, Rix Robinson, Skinner, Soule, Sturgis, Tiffany, Town, Wait, Walker, Webster,

Whittemore, Williams, Willard, Witherell, Woodman, President—67.

The amendments made in committee of the whole were then concurred in.

Sec. 19. The President of the Senate and Speaker of the House of Representatives (shall receive no additional compensation in virtue of their offices.)

Mr. McCLELLAND said, if this amendment prevailed, it would be necessary to fix the compensation for the President of the Senate. He would move to amend so that it shall read:

"The President of the Senate and Speaker of the House shall receive the same per diem and mileage as members of the Legislature, and no more."

Which was adopted, and the amendment as amended was concurred in.

Amendments to sections 20 and 23 were concurred in.

Section 25, providing that the printing ordered by the Legislature shall be let by contract to the lowest bidder, and specifying the manner of printing, was read.

Mr. GARDINER moved to strike from the section sub-divisions 2 and 3, viz:

2. Bills and resolutions shall be done in the usual manner, and the price of composition shall be one-third that of solid matter.

3. Blank pages or fractions of pages shall not be computed in the estimate of composition, and no charge except for reading matter actually set shall be allowed.

Mr. G. said—My reasons for moving to strike out these sub-divisions, are plain and easily expressed. The first sub-division I move to strike out for the reason that it is perfectly useless where it is. The next Legislature may be unable to carry it out or estimate what is one-third solid matter. The usual method, if the Legislature want it leaded, is to compute it as solid matter. The clause is an invasion upon a practice of printers, which has existed so long that it has passed into a law among the craft.

With respect to the third sub-division, the Legislature, in order to carry that out, will be obliged to have a committee of printers during the whole of the session. It excludes blank lines, and every thing of that kind, from counting in composition. It is going to operate to the injury of the craft through the whole of the State, if you

put it in the Constitution. It will become the butt of attack for all the presses of the United States—for the press to aim their shafts at—and you will get rebuffs from all the presses. They will attack it—they will tell you it is a failure. You cannot carry it into effect.

For my part, I should like to see the whole amendments stricken out. They are futile and useless, and expose the Convention to the ridicule of the press. They cannot be carried out unless a committee of printers be in attendance during the session.

Mr. HASCALL—I have listened with some attention to the remarks of my brother of the press from Washtenaw, [Mr. GARDINER,] and find myself obliged to disagree with him. He objects that under the second clause it will be impracticable to fix the price of bills and resolutions. I can see no difficulty. Let the price be computed in the usual manner, and divide that by three, and you have the price as contemplated by the clause objected to. The process is perfectly practicable and perfectly simple.

But the third clause is also objected to, and is sought to be stricken out. If this be done, all the rest may as well follow; for this clause is the very heart of the whole matter. The improper practices which have prevailed in the State in regard to the public printing, have nearly all originated from the want of a provision similar to the one contained in this clause. The gentleman says it is altering the rule which has always prevailed among printers. This is true; but in legislative printing, such as we see in our daily journals, many times more blank space occurs than in any other kind of printing. Take an example; we sometimes have a copy of the journal laid upon our table with one printed page and three blank pages. Now, by a rule of printers, these three blank pages are all counted and charged as reading matter, actually printed.

The principle may be illustrated in this way: A farmer has an eighty acre lot; in one corner of that lot he has standing ten acres of wheat; he hires a man to cut it; and when the man brings in his bill, he (the farmer) is surprised to find that he is charged for cutting eighty acres of wheat. When inquired of as to the principle on

which such a charge is founded, the laborer answers: "Why, sir, I have had to walk across your large lot to get at my labor, and I think I ought to be paid for it. You, yourself, are to blame for not having the whole field covered with wheat."

This, sir, I believe, is a fair illustration. Now, had the whole field been covered with wheat, except here and there a vacant patch, of small account, he would be right in charging for the whole area of the field, and his charge would not have been disputed. This is the full extent of the meaning of the rule among printers. But it has been said that masons and joiners, and other mechanics make these constructive charges; and in plastering and siding a building, the space occupied by the doors and windows are charged for. This is right. But I ask, sir, suppose, upon a wall a hundred yards square, ten yards should have been knocked off, and you should employ a mason to patch it up, and he should bring in a charge for the whole hundred yards, would this be submitted to? I think not.

Sir, our public documents go into the archives of other States. The manner in which they have been printed heretofore, has done great discredit to our State. I wish to compel State printers hereafter to perform their labors in a workmanlike manner, and then to pay them a fair and compensating price. The people will never object to pay a just price for any necessary labor performed for them. As to the objection, that these restrictions will have an injurious tendency upon printers throughout the State, I think differently. When printers at the capital are compelled to do the State work in a proper and workmanlike manner, and receive therefor healthy and fair prices, this will have its influence throughout the State, and country printers will not be compelled to do work at the miserable pittance which has been bid by State printers, for two or three years past; and who, in order to live by their contracts, have been compelled to gouge the State in every possible manner. I think, sir, the craft will soon realize the benefits of this stable and healthy manner of conducting the public printing. I hope the good sense of the Convention will see the impropriety of striking out.

Mr. MOORE had supposed the printers had fixed it all up. The man taking the contract would understand it. He saw no reason why it should be struck out.

Mr. GARDINER—I was well aware I should meet with opposition from my friend from Kalamazoo, on this subject. But I think I am right in the proposition as far as these fractional pages are concerned; and those blank lines. If I were State printer I would make it up and print it in a *solid* form; and the Legislature would not thank the printer for setting it up in such a shape. How would it look? But as to blank pages, this mode of estimating the work of mechanics is not confined to printers alone. Go to your mechanics—a carpenter for instance. Does he charge by the piece only, for the siding he puts upon your house? Does he not charge in his measurement for the space occupied by the doors and windows? A plasterer who does his work by the piece—does he take out all the doors and windows when he estimates his charge? By no means, sir. There is a difference between mechanical work and farming work; and a great deal of difference between farming and printing; between agricultural work and mechanical work. It runs through the whole routine of business. This is an innovation on the rule of the mechanical craft, not only in this State, but through all the States.

The gentleman from Kalamazoo says he had an interview with the State printer. I have seen him, and he talked different to me. But, of what use is that? he will probably never take it again. He says he is losing money every day. I ask that you will not make this innovation—not make us a laughing stock to the the press.

Mr. N. PIERCE said, he could see no harm in the provisions of the section. It is only a description of the work; it can make no difference to the printer. It is not expected the printer will work for nothing. I would say (said Mr. P.) that ancient rules have been done away with. The ancient jury system has almost been done away with. He saw no necessity for striking this out; it describes the work, so that the account shall be rendered in a particular way. It does not affect the pay of the printer.

The question was taken on striking out sub-divisions two and three, and lost. The

amendment made in committee of the whole was concurred in.

The amendments to sections 26 and 27 were likewise concurred in.

Section 28 was read.

Mr. McCLELLAND moved to strike out "chaplain or," so that the section should read: "They shall have no power to pay for any religious services in either House."

Mr. C. said he did not wish the amendment of the committee to be concurred in; but if it should, it might exclude a chaplain from the Penitentiary, which he supposed was not the intention of the Convention.

Mr. MASON hoped the amendment would not prevail; and that the members of the Convention were not prepared to concur in the amendment made in committee. We should be the first State to make a thrust at the christian religion. The object of the amendment was to strike out a part of the section, and he supposed it might be proper; but he hoped the whole amendment of the committee would be struck out. He saw no reason why the chaplain should be in our Penitentiary and not in the Legislature. He thought they required a chaplain more in the Legislature than in the State prison.

If the principle is to be adopted, it should be made universally applicable—in the State prison, the army, in Congress, and the several State Legislatures. The principle has obtained ever since the formation of our government, to recognize the principles of religion by having the sessions of Congress and of every State Legislature opened with prayer, and he hoped Michigan would not take the first step in doing away with this time honored practice.

Mr. WOODMAN—Unless some one springs the previous question, this matter will undergo a long investigation. Many gentlemen will speak on the subject. I want to explain my views. As the hour of adjournment has arrived, I move the Convention adjourn.

The motion was lost.

Mr. MOORE—I do not think it necessary to take up time in discussing this question. I believe members have their minds made up on the subject. I shall go for restoring the original section. I do not think it is necessary for the friends of the

measure to raise discussion; nor those opposed. I do not believe that any discussion will change a single vote. It is an old and venerable custom, and ought to be sustained; but we only want a silent vote on the question.

Mr. CHAPEL said—Mr. President, as a general thing, I am a very quiet and peaceable man; but I am not disposed to hold my peace, and have this matter smuggled through. We came here to revise the constitution and do away with abuses. Take, sir, the last legislative session of 85 days; it makes 170 days services in the House and Senate, for services of chaplains; it amounts to some \$500. I ask, what services were rendered to the public for that amount of money?

The opening of the session, I admit, does not delay business much; it is only four and a half or five minutes daily. The time occupied during a session would be about fourteen hours. But I ask, sir, what does it cost the State? It will amount to thirty-six dollars for every hour's service; and this to be paid by the State. In the opinion of several delegates, the section is right; but I do not think it is in accordance with the wishes of the people. I do not think it is necessary to pay any person three dollars for five minutes' services. Show me the man that is willing to pay at that rate for the services of the clergy, and I will show you a man that would go for the union of church and State. I do not believe the people of Michigan ask it. I believe in prayer. I believe it is salutary on us as a Christian people. I am willing, in my individual capacity, to do as much as any other gentleman on the subject; but when they would smuggle this through the Convention, and appropriate the sum of thirty-six dollars for prayer, every hour, I am opposed to it as extraordinary compensation for very small services, and they merely for the benefit of a small portion of the community. I am willing and anxious to pay the clergymen who officiate here, out of my own pocket, rather than make an appropriation out of the public treasury; and I think if we pay them a dollar a day, it will be enough. Are we not patriotic enough to take out of our own pockets a few dimes to pay them?

Adopt this article in the constitution, and you will have extraordinarily high-

mind men—men of liberal education—seeking this office. But the politicians will ascertain whether the Methodists, or the Presbyterians, or any other denomination, are the strongest, and they will vote accordingly. It will occupy three days every session, before it will be decided who shall open the house with prayer. It is an illegitimate thing, and has cost the State more money than any other abuse.

Let us cut off this appendage. I think it will not injure any conscientious man. Some worthy men here contend for the principle without looking at its effect or its bearing on the State. Some men are disposed to make themselves publicly pious. They wish to appear pious all over the State. I ask to be placed on a level. I am willing to have prayer, and to pay for it; but, sir, I am not willing it should be paid for out of the public treasury.

Mr. WOODMAN—I feel a great deal of deference for my venerable colleague, though we differ so much in opinion on this question. I am sorry to see a disposition to spring the previous question upon it. I am one of those who want to discuss the principle before the vote is taken, and I was desirous that the afternoon should be taken for the discussion.

Sir, it is a great principle that is involved, and it should be well considered before it is fixed in the constitution. It is whether money shall be taken from the treasury for religious purposes or not. I am not disposed to be brought in among those whom my friend [Mr. VAN VALKENBURGH] would represent as opposed to religion or religious institutions. I am orthodox in sentiment; but I do not think it right to tax a portion of the people to pay for persons coming in here to pray. I believe it is unconstitutional under the constitution of the United States.

I believe it is opposed by clergymen and religious men in the State. A clergyman, respectable and high minded, one who stands high in his profession—I will name him, Mr. Jacobes, of Northville—expressed his opinion to me that it ought to be fixed in this constitution that the Legislature should be prohibited from paying for the services of a chaplain out of the public treasury; and he was further opposed to ministers of the gospel being eligible to State offices.

What will be the effect under the present substitute? Does it prohibit the Legislature from employing a chaplain? Not at all. I am in favor of having a chaplain, but I am in favor of paying him out of my own pocket, and not charging it upon the tax payers of the State. Men of integrity, capacity and standing in the State are opposed to it.

When I received a nomination, I was called out on this question, and I distinctly stated that I was opposed to the employment of a chaplain in the Legislature, to be paid for out of the public treasury; and that I would use my influence in this Convention to have an article inserted in the Constitution that should settle this question definitely. I do not believe that a majority of the orthodox religious community wish to see the ministers of religion demeaning themselves by soliciting the members of the Legislature for their votes for the office of chaplain. If we pay them ourselves they will not come here to solicit votes for the office.

If there be a majority of Methodists in the Legislature, there will be a Methodist chaplain; if a majority of Presbyterians, there will be a Presbyterian chaplain. We have now four different chaplains. Is there anything wrong in that? Why do you wish us to pay money for that which we are opposed to? We do not wish to hinder them from employing a chaplain. I think my friend from Monroe does not seriously think it will prevent a chaplain being employed in the State Prison.

Mr. McCLELLAND—The words are "to pay chaplains." It is probable that it will exclude the appointment of a chaplain to the State prison.

Mr. WOODMAN—I think the old constitution is sufficiently explicit; but they came here and discussed the matter every session. I want to put in a clause to say they shall not pay it out of the public treasury, so as to cut of the whole matter.

The Convention then adjourned.

Afternoon Session.

The Convention was called to order by the PRESIDENT.

The consideration of the unfinished business of the morning was resumed.

The question being upon the amendment proposed by Mr. McCLELLAND, the same was agreed to.

The amendment to the section (28th) was then concurred in by the following vote:

YEAS—Messrs. W. Adams, Alvord, Arzeno, Axford, Barnard, Britain, Alvarado Brown, Ammon Brown, Asahel Brown, Burns, Bush, Carr, Chapel, Church, J. Clark, Conner, Cook, Cornell, Crary, Crouse, Desnoyers, Dimond, Eastman, Eaton, Edmunds, Fralick, Gale, Gardiner, Graham, Green, Hanscom, Hascall, Hathaway, Kingsley, Kinne, Mosher, Newberry, Mowry, O'Brien, Orr, Redfield, Roberts, Rix Robinson, Soule, Storey, Sturgis, Town, Walker, Warden, Wells, Willard, Woodman—52.

NAYS—Messrs. Anderson, Backus, Bagge, H. Bartow, Beeson, Butterfield, Chandler, Choate, S. Clark, Comstock, Danforth, Daniels, Gibson, Hart, Harvey, Hixon, Lovell, Marvin, Mason, McClelland, Morrison, Moore, J. D. Pierce, N. Pierce, Prevost, Robertson, E. S. Robinson, M. Robinson, Skinner, Sullivan, Sutherland, Tiffany, Van Valkenburgh, Wait, Webster, White, Whittemore, Williams, Witherell, President—40.

The amendments made in committee to sections 29, 32, 33 and 34 were severally concurred in.

The amendment to section 36 being under consideration,

Mr. McCLELLAND said he was opposed to fixing the first Wednesday of February as the time for the meeting of the Legislature, except the first session. The reasons he had assigned before were good now. The reason why it should be fixed to commence in February the first session, was that Congress may not pass the apportionment bill till near the close of the session. It might not be obtained before the Legislature adjourned.

Mr. CRARY—The apportionment bill has fixed the ratio. When we know the census, that is all we want.

Mr. McCLELLAND—We know they may change it.

Mr. COOK moved to amend by striking out "February," where it last occurs, and inserting "January" in lieu thereof.

Mr. McCLELLAND—The session of the Legislature may close before they know

what has been done with the apportionment bill in Congress. Suppose the Legislature meets on the 4th day of January, with a session of sixty days, they will adjourn as soon as Congress, and may not know what number of representatives has been apportioned to Michigan. The next Legislature will have to fix the districts; and it may be necessary for the Governor to call an extra session to make the apportionment.

The amendment prevailed.

Mr. CHURCH moved further to amend, by inserting after the word "January," the words "in 1852."

Mr. C. said he would barely remark that he would have the Legislature meet in '51 and '52, and biennial sessions thereafter. He was certain that a session in '51 and '52 would be required if biennial sessions were had afterwards.

Mr. McCLELLAND—The first objection is, that you elect a year before the Legislature meet—another is that the members should come fresh from the people. They have long enough time between November and January to learn how to discharge their duties when they come here. Another reason: Casualties may occur between the election and the meeting of the Legislature. Another: The Governor would not meet the Legislature for twelve months after he was sworn into office, although the Legislature have to decide who is elected.

The sixth objection is, that influences may be brought to bear on the members which could not, if elected in the November previous to the meeting of the Legislature.

The seventh objection is, that the census will come wrong if the Legislature meet in the same year they now do.

The reasons in favor, are: By postponing the meeting after the election, you would enable a member to prepare himself for the duties of his situation. That has been a great evil—persons uninformed coming here. It takes time to learn the rules. Another reason is, as the Governor would have been in office one year, he would be better able to give information in relation to public affairs.

Third. The persons elected in single districts will mingle with the people, and come fresh from them.

Fourth. A provision is made for casualties and deaths.

Fifth. They will not be subject to those malign influences when they come here, if you elect them a year before; because if they turn their attention to the matter, they will be better prepared for legislation, and will act better than when uninformed, as influences at home will be of no effect. It is when they come here that they are open to temptation. With biennial sessions, you will be under the necessity of having occasionally an extra session.

But the treasury is running in debt constantly. There is no money in the treasury; it is running in debt for paying the Convention. It has had to make an arrangement with the Phoenix Bank in New York, for the payment of the interest on the State debt, due in July, to the amount of \$14,000.

In my opinion (said Mr. McC.) it would be impolitic to have a session of the Legislature in 1852. If we have, we must cease paying interest on our debt, or lay an additional State tax; or the members of the Legislature when they come here in 1852, will have to go back without pay. It will be of more importance to our character as a State to go on and pay the interest on our debt, and relieve the people from taxation. You may lengthen the session of '51 if you please, but I believe sixty days will be sufficient time to enable them to alter the laws in accordance with the provisions of this Constitution.

Mr. CHURCH—My proposition is to have two consecutive sessions. It had no reference to the time between a member being elected, and attending in this room; but in reference to the mass of business that must necessarily be thrown upon the Legislature by this Convention. The next session is limited to sixty days. Gentlemen knowing the usual delays in the beginning of a session, must know that it will not be long enough. The great alterations made in the Constitution will require corresponding alterations in the laws. Another reason is, provision must be made for our State debt, during the next session of the Legislature. You will find, I will venture to predict, that in the session of '51 there will be more business before the Legislature than can be disposed of.

I regret, sir, (said Mr. C.) that the Con-

vention has met at this time. I did not wish to see it till after the apportionment of 1850. If we had met then, the new counties would have taken their business into their own hands. The radical change we have gone into in the Constitution will require such a change in the laws as cannot be made safely, in haste.

Mr. COOK—There is another reason in regard to the election of a United States Senator. The term of one of our Senators expires in '51. That will be provided for in the next Legislature. The term of the next will expire in March, 1853. I would wish to keep them on to the same time of election to this office.

Mr. BRITAIN—They can elect a year earlier than usual.

Mr. COOK—It will be the case in every election; their terms will expire in an even year.

Mr. BRITAIN—If it be an inconvenience to the State by the election of two persons eighteen months before the time of meeting, how then will it be if the whole Legislature be elected some fourteen months before they meet? There is one observation of the gentleman from Monroe I would notice. He says they will not be corrupted at home; but, sir, may not public sentiment change? and will those persons follow in the train of public sentiment? I want to see the Legislature fresh from the people. Having the Representatives elected a short time previous to the session will be the best means of securing in them the opinions of their constituents.

Mr. BUSH said, sixty days may be long enough to revise the laws, in accordance with the Constitution, but all experience goes against such a supposition. The gentleman from Monroe [Mr. McCLELLAND] is a man of industry, and I think of integrity, but he and his colleagues sat ninety days, in 1843. In 1842, the Legislature sat forty-seven days, and they went home with popularity on their heads; but in three years everything they did was repealed. They worked hastily; and in consequence of that, crude and undigested laws were thrown upon the people. If you limit the time of the next session, and do not allow them to meet in '52, there will be crude and undigested legislation, which will cost the State more than the interest on the State debt for one year.

I call (said Mr. B.) on the gentleman to go in for two dollars a day. You will in that way save the amount to pay the interest, and the people will be as well served. I ask the gentleman to say from his experience, when the Legislature hurried through, if it was not doubly expensive, from the necessity of correcting their crude legislation. It is the quality and not the quantity of the legislation that ought to be considered. Our statutes must be changed in every article. When we see how much time it takes to fix an article here, we may judge of the inability to get through with the mass of business that will come before them, in sixty days. I would extend it to ninety days, and if necessary reduce the pay to two dollars a day.

Mr. N. PIERCE said he saw no occasion for holding a session of the Legislature in 1852. They may not be able to get through all the laws; but the Legislature may be called together again if necessary. He (Mr. P.) saw no good reason for changing the policy of biennial sessions. That policy should be pursued which will lessen expense. Sixty days will be long enough. We have laws enough to satisfy the people for the next ten years. I don't think the people can afford to pay for new laws. They do not want them.

Mr. McCLELLAND said he knew when there was no limit to the session of Congress they continued till the dog days, or till some fatal disease drove them from the Capitol. In short sessions they did more business, and did it better and more satisfactory to the public, than when they remained eight or nine months.

In this State the sessions have been protracted; and why? Because the sessions were not limited. Sir, (said Mr. McC.) I have never been in a Legislature yet, in which we could not have done the business in half the time, if the members had been so disposed. With regard to the proposition of the gentleman from Ingham, [Mr. BUSH,] I would say, that if I wanted to come here again to the Legislature, I might go for two dollars a day. But I do not; and I would say that three dollars a day is not too much. Many of our members would not be paid, if five dollars a day were allowed; but to replenish the treasury I would go for it.

Mr. BACKUS said—Mr President: I

see no reason for the change proposed to be made. If you fix the time for them to act, I can say from my own experience, there is more business done, well or ill, towards the close of the session than in two-thirds of the entire session. The public sentiment requires you to fix the sessions of our Legislature biennially; and unless some overwhelming reasons are given, I shall give my vote in favor of biennial sessions.

It is said we must call the Legislature together in '52, because there will not be time in the session of '51 to fix up our laws in accordance with the Constitution. Sir, if you fix forty days, every one will be fixed up; and so of ninety days. If you retain it as it is, more good will result than mischief can ensue. Most of our laws can be easily adapted to the changes which have been made, or will be made in our Constitution, unless some more radical changes should be made. If it should be found necessary, the Governor can call an extra session on his own responsibility; but do not make a promise to the ear and break it to the hope. Do not fix biennial sessions, and then call the Legislature together in 1851 and 1852.

Mr. S. CLARK—It does not involve the principle of biennial sessions. The reason assigned is, that a great amount of legislation will be required on account of the alterations made in the Constitution. I do not consider the argument to be of great force. But there is another objection arising from the length of time between the election and members taking their seats. I would not put, with my consent, any provision in the Constitution that shall require our members of the Legislature to be elected fourteen months before they take their seats. On looking back, gentlemen must come to the conclusion that influences have been brought to bear on the Legislature. We have large corporations in the State; if they have not brought influences to bear upon the Legislature to promote their own advantages, they may do so; and it would be improper to allow them to travel through the State for fourteen months to influence the members.

Mr. N. PIERCE—It seems to me the reasoning is all wrong; that if it be dangerous to elect a man a long time before he takes his seat, then it is wrong to elect

our Senators for a long period. He never heard of their being corrupted.

Mr. COOK would ask his friend, [Mr. McCLELLAND,] who was elected to Congress one year before he took his seat, if in that time he was corrupted?

Mr. S. CLARK—That is not to the point. I would ask if there were not influences brought to bear in relation to railroad interests at the last session of the Legislature? They controlled the public press and the leading men throughout the State. I would ask if circumstances of that kind might not again occur? and if so, would it be proper to allow them so long a time to operate upon members of the Legislature?

Mr. WITHERELL said nine-tenths of his constituents were in favor of biennial sessions. He should endeavor to carry out their wishes. One reason given in favor of the proposition of having a session in '51 and '52, was that in the next session they would not have time to adapt the laws to the alterations made in the Constitution.

There was a proposition which had struck him forcibly—that this Convention should appoint a Commissioner to adapt the laws previous to the meeting of the Legislature. If that were adopted, forty days would be amply sufficient time for the next Legislature to continue in session.

With regard to the pay of members, he had been of opinion that two dollars a day would be sufficient. Two dollars would not pay some men for their services; but two dollars would be more than many, and perhaps a majority, could earn. He [Mr. W.] should vote, when the question arose, to reduce the salaries in every practicable form; and the members of the Legislature should contribute their mite for the benefit of the treasury.

The yeas and nays being ordered upon Mr. CHURCH's motion, it was negatived:

YEAS—Messrs. Brown, Bush, Church, Crouse, Fralick, Hanscom, Lee, Prevost, Roberts, Sullivan, Sutherland, Van Valkenburgh—12.

NAYS—Messrs. W. Adams, Alvord, Anderson, Arzeno, Axford, Backus, Bagg, Barnard, Beardsley, Beeson, Britain, Alvarado Brown, Asahel Brown, Butterfield, Carr, Chandler, Chapel, Choate, S. Clark, Comstock, Conner, Cook, Cornell, Dan-

forth, Daniels, Desnoyers, Dimond, Eaton, Edmunds, Gale, Gardiner, Gibson, Graham, Green, Hart, Harvey, Hascall, Hathaway, Hixon, Kingsley, Kinne, Lovell, Marvin, Mason, McClelland, Moore, Morrison, Mosher, Mowry, Newberry, Orr, N. Pierce, Redfield, Robertson, E. S. Robinson, M. Robinson, Skinner, Soule, Storey, Sturgis, Tiffany, Town, Wait, Walker, Warden, Webster, Wells, White, Whittemore, Williams, Willard, Witherell, Woodman, President—74.

The amendment of the committee was then concurred in.

The amendment made to section 37 was also concurred in.

Section 38 being under consideration,

Mr. STOREY submitted the following substitute for the same:

"Sec. 38. The Legislature shall pass no law creating or authorizing a State paper, but shall provide for the publication of all acts of a general nature in all the newspapers of the State, under such regulations and for such compensation as may be provided by law."

Mr. EATON asked a division of the question.

The yeas and nays being ordered,

Mr. STOREY said the subject had been fully discussed when under consideration in committee of the whole; he, therefore, rose merely to make a statement in regard to the expense of publication. That matter, he believed, was not well understood. He [Mr. S.] had examined the acts of last winter, and found that there were only 40 pages of general laws. The compensation which the printers would probably be paid, would perhaps be forty cents per folio page. If there were forty papers in the State, the publication of the laws in those papers would cost about six hundred dollars.

The cost of the publication of the session laws of 1849 was nine hundred and forty-three dollars, twenty eight cents; so that doing away with that mode of publication, and publishing the general laws in the several papers of the State, which, with biennial sessions, would be once in two years, there would be an annual saving of seven hundred dollars.

Mr. WELLS—What does the gentleman mean by "several?"

Mr. STOREY—It includes the whole of

the papers published in the State. He had no objection to alter the phraseology if that term did not fully convey the meaning. He hoped, at least, the section would be stricken out. If it were retained in the Constitution, whatever the exigency of the case might be, the State could not secure the publication of a law in a newspaper.

A division of the question was asked by Mr. EATON, and the motion to strike out was lost by the following vote:

YEAS—Messrs. Alvord, H. Bartow, Beardsley, Beeson, Church, Crary, Eastman, Edmunds, Gardiner, Gibson, Hanscom, Hascall, Kingsley, Lee, Lovell, McClelland, Roberts, Robertson, Rix Robinson, Skinner, Soule, Storey, Sutherland, Van Valkenburgh, Warden, White, Whipple, Williams—28.

NAYS—Messrs. W. Adams, Anderson, Arzeno, Axford, Backus, Bagg, Barnard, Britain, Alvarado Brown, Ammon Brown, Asahel Brown, Carr, Chandler, Chapel, Choate, J. Clark, S. Clark, Comstock, Conner, Cook, Cornell, Crouse, Danforth, Daniels, Desnoyer, Dimond, Eaton, Fralick, Gale, Graham, Green, Hart, Harvey, Hathaway, Hixon, Kinne, Marvin, Mason, Moore, Morrison, Mosher, Mowry, Newberry, O'Brien, Orr, N. Pierce, Prevost, Redfield, E. S. Robinson, M. Robinson, Sturgis, Town, Wait, Walker, Webster, Wells, Whitemore, Willard, Woodman, President—60.

The question bring on concurring in the amendment made in committee of the whole,

Mr. J. D. PIERCE said it would be one of the most singular positions a Legislature could be placed in. They could make laws, but could make no provision for their publication, no matter what might be the circumstances of the State, or however important it may be for the benefit of the people. It was astonishing to him that such a provision should be placed in the Constitution.

Mr. N. PIERCE did not understand that the laws were not going to be published, because they were not going to be published in a newspaper. There has been a large sum paid for publishing in a newspaper, which had been of no benefit to him. If the gentleman could make them all read them, it would be very well. When the gentleman published a newspaper on

education, it was not read by the people. We have not come here, (said Mr. P.) to change the government, but to stop the holes in the old Constitution—to stop certain leaks which the people complain of.

Mr. McCLELLAND—I was opposed to the amendment, and am opposed to this proposition. This article provides that the Legislature shall have the power to pass an act or general law, and make it take effect immediately after its passage. If we do not allow the Legislature to publish the laws in some other way than in pamphlet form, rank injustice may be perpetrated in the State. Our laws are not distributed in pamphlet form for five or six months after their passage; and unless you have some communication with the people of the State, it will be impossible for them to know the laws till they feel, by sad experience, the power of them.

I think (said Mr. McC.) we may trust this to the Legislature. Much has been spent by their publication in the State paper, but in abolishing that, we should guard against what might have a tendency to oppress the people. If gentlemen want to abolish the office of State printer, I have no objection; or to confine the publication of the laws to one paper, or in any other way by which we can communicate to the people the laws, before the publication in book form. Though I would go for saving all we can I would not do any thing that would injure the people of the State.

Mr. HANSCOM was in favor of striking out; he would leave it to the Legislature. The argument of the gentleman from Monroe should be conclusive on the minds of members. The Legislature may pass acts which may affect the lives, property and reputation of every man, and which may go into effect immediately on the signature of the Governor, and yet we prohibit their publication. The gentleman from Calhoun says he does not read the newspapers.

Mr. N. PIERCE—I read a dozen of them.

Mr. HANSCOM—Well, he said they were not read. Sir, there is hardly a person arrived at the age of a dozen years, but what reads a newspaper. It is the most effectual way of getting the people acquainted with the laws, having them published in the papers. Who reads the laws in book form? It is only general

laws that we propose to publish, and they should be published extensively within the State. I supposed it was the object to get the people acquainted with the laws as soon as they took effect. There have been great complaints made among the people that, before they could know the laws, they were repealed. I believe this should be put a stop to. We should leave to the Legislature at least the power to give to the people all the information they can through the newspapers.

Mr. HASCALL did not know that it would be necessary to publish all the general laws. As a publisher, he had been called upon by the State to publish several acts; those which the people ought to be acquainted with before they went into operation, such as tax laws and the one calling the Convention. There may be some such laws which it would be proper and necessary to publish; but with regard to the whole of the general laws, he was not prepared to say that they ought to be published in the papers.

Mr. WHIPPLE—It seems necessary that some plan should be devised, that the people should become acquainted with the laws. The pamphlet laws are not published for several months after the close of the session. But, sir, is it the fact that the laws do not reach the people of the State? To whom are they sent? To our State, county, and township officers. If I comprehend the force of the argument, the people must find out what the laws are. I know no way but this: that a person bound by the laws, must go to our public offices and read them there. Every person is bound to know the law—the code civil and criminal; and he should have an opportunity of knowing it.

He [Mr. W.] would not be much frightened about the expense. If some fair and honorable principle could be adopted, by which they could be published, he should go for it. But there might be a limitation. It would not be necessary to publish all the general laws; there are some of them which it is not necessary to publish; but those laws which define the rights of persons—which affect vitally their interests—that come home to the hearths of our citizens—should we deprive them of the means of becoming acquainted with these? If they would adopt a proposition of some

character that would meet the objection at a small expense, he would go for it. If not, he would leave it open to the Legislature.

Mr. BACKUS believed if the section were left as it came from the hands of the committee of the whole, the Legislature would consider it imperative to have the whole of the general laws published in pamphlet form and published throughout the State.

Newspapers publish general intelligence, and they will not forego it. They publish the laws as convenience should seem to dictate, and they frequently do not publish them for six months after they are published in book form. If it be left to the newspapers to publish the general laws, it will be found a broken reed. Many of the newspapers have a small circulation.

On motion of Mr. WALKER, the amendment was amended by adding thereto the following:

“Except for the publication of such general laws as are, by the direction of the Legislature, to take effect within less than ninety days after the passage thereof.”

The amendment made in committee was then concurred in as amended, by the following vote:

YEAS—Messrs. W. Adams, Arzeno, Axford, Backus, Bagg, Barnard, Beardsley, Beeson, Britain, Alvarado Brown, Ammon Brown, Burns, Bush, Butterfield, Carr, Chandler, Chapel, Choate, S. Clark, Comstock, Conner, Cornell, Crouse, Danforth, Desnoyer, Dimond, Eaton, Edmunds, Fralick, Graham, Green, Hart, Hascall, Hathaway, Hixon, Kingsley, Kinne, Lee, Marvin, Mason Morrison, Mosher, N. Pierce, Prevost, Redfield, E. S. Robinson, M. Robinson, Skinner, Sturgis, Tiffany, Town, Walker, Warden, Webster, Whipple, Williams, Willard, Witherell, Woodman—59.

NAYS—Messrs. Alvord, H. Bartow, Asahel Brown, Church, Cook, Crary, Daniels, Eastman, Gale, Gardiner, Gibson, Hanscom, Harvey, Lovell, McClelland, Moore, Mowry, Newberry, O'Brien, J. D. Pierce, Roberts, Robertson, Rix Robinson, Soule, Story, Sullivan, Sutherland, Van Valkenburgh, Wells, White, Whittemore, President—32.

Mr. MASON moved to adjourn, but the Convention refused to adjourn.

Mr. HANSCOM moved that the article entitled "Legislative Department" be re-committed to the committee on that department, with instructions to amend the same as follows, and report said article back to the Convention forthwith, viz:

1. Strike out section 2, and insert in lieu thereof the following:

"The number of Representatives shall not exceed eighty, nor be less than fifty, to be elected by single districts and for two years. The Senate shall consist of twenty-four members, to be elected in such manner and for such term as may be prescribed by law."

2. Amend section 3 by striking out the following:

"Provided, That each county having an organized county government, and the territory attached thereto, shall be entitled to one Representative," and insert as follows: "Provided, That each county whose organization on the first day of January, A. D. 1851, shall have been perfected by election of county officers, shall be entitled to at least one Representative."

3. Strike out section 5, and insert in lieu thereof the following:

"The State shall be divided into Senate districts; and in the formation of Senate districts no county shall be divided."

4. Strike out of section 15 the words "two-thirds," and insert "a majority," where the words occur in the section.

5. Strike out all of section 17, up to and including the word "thereafter, in the 3d line, and insert the following:

"Compensation of the members of the Legislature shall not exceed three dollars per day for actual attendance, unless absent by reason of sickness; and after the session of 1851, such compensation shall not extend beyond the first sixty days of the session."

6. Amend section 20 by striking out the words, at the end of the section, "and for one year thereafter."

7. Amend section 23 by striking out the words "all the members elected to," in the 3d and 4th lines of said section.

8. Strike out of section 25 all after the words "by law," in the 5th line, down to and including the word "oath," at the end of the 17th line.

9. Strike out section 38, and insert as follows:

"All general laws shall be published in two of the newspapers having the largest circulation published in the city of Detroit, and also in the newspaper having the largest circulation published at the seat of government of the State."

Mr. HANSCOM moved to adjourn; when, by consent, the President announced the following committee, under the resolution of Mr. WOODMAN, this morning:

MESSRS. WOODMAN, BACKUS, ROBERTS, WILLIAMS, COMSTOCK, WHIPPLE, BUTTERFIELD, RIX ROBINSON, KINGSLEY.

The motion to adjourn was lost; but after some discussion, on motion of Mr. ROBERTS, the Convention adjourned.

TUESDAY, (31st day,) July 16.

The Convention was called to order at half-past seven o'clock, by the PRESIDENT.

PETITIONS.

By Mr. HASCALL: the argument of Joseph Miller, Jr., and others, members of the Kalamazoo bar, requesting their delegation to use their efforts in favor of an independent Supreme Court.

Laid on the table.

The Convention having arrived at the order of unfinished business, resumed the consideration of "Article —, Legislative Department."

The question being upon the motion of Mr. HANSCOM to re-commit with instructions, it was by consent passed over.

The question then being on concurring in the amendment made in the committee of the whole, striking out section 39, which was as follows:

"Sec. 39. The Legislature shall have no power to pass any act to grant any license for the sale of ardent spirits or other intoxicating liquors as a drink or beverage;"

Mr. MASON said he had hoped to hear this question fully discussed. He did not propose to make a speech himself, but would be glad to hear some of the friends of the temperance cause give their views on the matter. For himself, he was in favor of retaining the section as reported in the article, and trusted the Convention would arrive at the same conclusion. At the time of the passage of the license laws, he opposed them on the principle that their tendency would be to disturb

the peace and harmony of the community, to create disturbance among society, and to exert an undue influence on elections.

The sale of ardent spirits should not be regulated by law. If the traffic were a great evil, instead of being regulated, or even countenanced by the statutes of our State, it should be prohibited. He was ready to vote for its prohibition; but if the friends of temperance could not obtain this, they would take what a majority of the members chose to grant.

It had been argued against the repeal of the license system, that the income derived from it in Detroit was large. Members ought not to be influenced by any consideration of that kind in voting on the question. It was the price of blood, and on the same principle brothels, gambling houses, lotteries, or any other vice in community, could be licensed by the Legislature. He thought public opinion should control this matter, as it did other pernicious practices; and if so, it should be left free—beyond the power of the Legislature to sanction it. When the town authorities granted license for the sale of ardent spirits, they gave respectability and character to the traffic under the law. He would ask why this should be made a legal transaction, and men of good moral character be authorized to exercise the exclusive privilege of selling poison? It was a disgrace to our statutes, and should be wiped off.

He hoped, at least, that some provision would be introduced to prevent its interference in elections. Besides the evils of the license system in this respect, it operated unequally in others. Some towns refused to grant licenses, while others adjoining voted a license to sell. He hoped the question would not be passed on until duly considered.

Mr. VAN VALKENBURGH moved to amend the section by striking therefrom the words "drink or beverage," and inserting the following: "except for mechanical or medicinal purposes; and all traffic in said articles is hereby forever prohibited except for the purposes aforesaid."

Mr. VAN V. said—Mr. President: I present this amendment to section 39, for incorporation in our Constitution, from a conviction that the section reported by the committee will not effect the object desi-

red, and that nothing short of my amendment will satisfy the friends of reform. One of the most powerful causes which have operated in calling this Convention has been the public debt, and the oppressive taxes under which we groan; and that man who shall successfully propose a remedy for these evils will but promote the object of his mission here.

Now, sir, I propose to prove to this Convention, that if these legalized fountains of iniquity which are now sending forth their streams of death throughout our State, prostrating in their course all that is fair and lovely, and of good report, can be dried up; if these streams which are now sweeping over the land, exhausting its resources, multiplying the widows and the fatherless, spreading desolation and destruction in their course, can be stayed, and the money thus worse than squandered, turned into the treasury, our State debt would soon be liquidated, and there would be no more complaining of exorbitant taxes and hard times. One of the most prolific sources of poverty and woe would be removed, and our State present an enviable example of independence and prosperity. We believe, sir, there is not in the wide world a more destructive agent—a more insatiate monster than Alcohol. Men of genius, of talent, of intellect, have fallen, sadly fallen from high stations of honor to the degradation of the drunkard, and become a hissing, and a bye-word to all who knew them. This insatiate monster has invaded the sacred desk, and hung the church of the living God with the habiliments of mourning; he has tarnished the lustre of the emine, and perverted the streams of justice. Men of the profoundest literature, of giant intellect, of boundless acquirements, have been degraded into raving maniacs, into living masses of putrid death. But to the law and the testimony. Wine is a mocker—strong drink is raging, and whosoever is deceived thereby is not wise. Who hath woe? Who hath sorrow? Who hath contentions? Who hath wounds without cause? Who hath redness of eyes? They that tarry long at the wine, they that seek mixed wine. Look not thou upon the wine when it is red, when it giveth his color in the cup—when it moveth itself aright. At the last, it biteth like a serpent, and stingeth like an

adder. And its maddening bite transforms the man into a maniac, and its deadly sting sends him reeling to perdition.

Our penitentiaries, our jails and mad-houses are standing witnesses against alcohol in all its varied forms. The bloated, reeling drunkard, the cheerless hearth, the broken-hearted wife, the homeless orphan, the yawning grave which annually swallows up its 30,000 victims, all call upon us with resistless eloquence to stretch forth our hands in staying this torrent of wretchedness and woe. And shall we turn a deaf ear to the cry of the afflicted—shall we not stand up manfully here, and cast our vote in favor of a measure which promises so much to our fellow men? A friend of my youth was recently stricken down in the vigor of manhood, with the *mania potu*. He was a lawyer of eminence in his profession; a man of strong mind and brilliant intellect, whose kind heart and social qualities had endeared him to a large circle of friends. He indulged in the social glass, and fell a victim to intemperance. In his mad ravings, he called upon a brother, a clergyman long since dead, who had often attempted to arrest his progress on the road to ruin: "brother Benjamin, help! help!" he cried; but there was no help for the poor man; he drop't into the drunkards grave, and has gone to the drunkards doom. Could his heart-broken wife, as she looked down into that grave, have indulged the hope that his miseries were then ended, it had indeed been a drop of consolation in her cup of woe. But intemperance kills beyond the grave. The portals of Heaven are forever closed against the poor inebriate; for it is written with the finger of God, no drunkard shall enter there. The records of eternity alone can number the sighs and tears and blood levied by this foe to human weal. The fairest buds of promise have been blasted, the strength and beauty of manhood prostrated, and the blossoms of old age withered.

Sir, of all the scourges which have afflicted the human family, none have been more potent than alcohol, none more efficient in marring, blighting, and destroying human happiness than this monster. Tell me not of the sword or the pestilence; the freed spirits of the men who fall their victims may ascend to dwell with angels;

but the doom of the poor drunkard is irrevocably fixed. And shall we be accessory to all the misery produced by this nefarious traffic? Shall we forbear to use our influence to do all in our power to stay this tide of wretchedness?

And what is the argument urged by the enemies of this proposition? They tell us it is a custom sanctified by long years gone by; that it produces a revenue to the treasury; that the license law contains salutary and necessary restraints to regulate the sale. But, sir, does long usage sanctify sin? Because we have for these many years violated the law of reason and of God, shall we continue to do so? Or shall we not repudiate what we know to be wrong, and forever inhibit a traffic which is productive of evil, and only evil? Who does not know, Mr. President, that for every dollar put into the treasury by the sale of licenses, fifty or one hundred are abstracted in the way of poor taxes, criminal prosecutions, and the thousand other expenses consequent upon this business? Prohibit this traffic—say that no more alcohol shall be sold in this State except for medicinal and mechanical purposes—and you do more for the prosperity of our State, you do more for the cause of humanity, to dry up the burning tide of woe, and allay human suffering in its ten thousand forms, than you could do by any and all other provisions we might incorporate in our constitution.

I appeal to gentlemen upon this floor to aid me in this measure. I ask you as patriots and as christians, as men who love your fellow men and would promote their welfare, to aid us. Give us your countenance and your vote. Let it not be said that any sinister or political motive has prevented us from doing our duty. Let us place this prohibition in our organic law, and secure to ourselves the blessing of the widow and the fatherless, and the approval of our God.

Mr. TIFANY suggested the propriety of deferring action on the question until the report of the special committee on the subject was before the Convention.

Mr. MASON had no objection to that course. He would be very glad if the subject could be postponed until the report of that committee.

Mr. BAGG said the proposition, as orig-

inally reported by the committee, was just about what was wanted. He [Mr. B.] was a St. Paul man. He hoped that those who wished to prosper the cause would now come up manfully to the work and assist in getting rid of the odious license system.

Mr. WILLIAMS said that one of the principal reasons assumed for the late adjournment was, that members might consult their constituents and ascertain what public opinion was. So far as he had found it, he would say that it approved of most of the steps that had been taken by this Convention. But the only case in which disapprobation was manifested, was in regard to our having expunged the section of this article, suggested by the gentleman from Wayne. There was some doubt expressed the other day, as to whether the temperance men desired to have this article incorporated into the Constitution. He would say that he was not a member of any temperance society, or of the "Sons of Temperance;" and he would speak here what he believed to be the sentiments of his constituents, independent of their being temperance or anti-temperance in their views. They desired to have this section incorporated. The Legislature heretofore, in regard to this subject, had violated all the principles which controlled legislation. The Legislature had imposed no license upon men engaged in any other business, which he now recollected, with the exception of pedlars, who were taxed some small amount, in the shape of a license, for the reason, he supposed, that they were men flitting to and fro, enjoying the benefit of our roads and our laws, and the protection of our judicial establishments, without bearing any part of the burden of our taxation. License laws were inoperative. Vote "No License" or "License," and in most parts of the State they were a dead letter. Why then allow the Legislature to adopt laws relative to this trade, which it never adopts concerning your trade or mine? They were worse than a dead letter. Attempt to put them in operation in a township, and the peace and tranquility of the community, the political, the social and family relations of the citizens were disturbed.

The system was a nuisance in any shape, as well as corrupt. It was a compromise

with crime, if it were anything. If we aimed at a disreputable trade, as was contended by some, then let us not put money in our treasury derived from such a source. As the gentleman from St. Clair [Mr. MASON] remarked, "why not give a license for other offences? Why not license gambling houses, lotteries, &c., &c.," as they did in France, and exact revenue of all those kind of establishments which he would not name?

In regard to revenue, in the first place a great share of those who took licenses evaded and never paid the tax. If the tax was paid, how stands debit and credit between society and the system? A gentleman in his county took the trouble to examine the records for the purpose of ascertaining the expense of pauperism and crime entailed upon the county by the sale of ardent spirits, and the amount paid in for licenses granted for the sale of liquor. It was found that the expense incurred was a thousand dollars, at least, per annum; while the amount paid for licenses was a mere pittance.

However, his opinion was simply this: If the sale of ardent spirits be respectable and right, the business ought to be open to all, without restriction; and if it be wrong and disreputable, the occupation ought not to be compromised with, in any wise. He conceived that the sentiment of his part of the State was, to have the section incorporated as it stood in the original report.

Mr. MORRISON called for a division of the question. He wished to have the question disposed of. If the select committee on the subject chose to bring in a report, there was no necessity why it should conflict with the section the Convention might then adopt; or if they thought proper to report a separate article, there could be no objection.

Mr. EATON was in favor of the provision as reported by the committee. He hoped that the motion to strike out would not be concurred in, with the exception of the words, "as a drink or beverage." He could testify, with the gentleman from St. Joseph, [Mr. WILLIAMS,] as to what public opinion was in his [Mr. E's] part of the country. Every man with whom he had conversed was in favor of the measure—even those engaged in the sale of ardent spirits. If the sale of liquor were

an evil, why take pay for it? We might as well license any other evil as to license this; and he considered this one of the greatest evils abroad in the land. He was even opposed to licensing it for mechanical purposes; for in that way people could get it, and thus perpetuate the evil. He thought the amendment of the gentleman from Oakland was going too far—further than the Convention, perhaps, was willing to go. He referred to prohibiting the making or vending of liquor. As had been said on a previous occasion, “half a loaf is better than no bread.” He was content to have the words “drink or beverage” stricken out.

Mr. WITHERELL desired to offer a few remarks in relation to the manner in which the law would stand, if this provision were sustained and the Constitution adopted. The law at present stood in this form: we now prohibited the sale of ardent spirits without a license, to be granted by the proper authorities. But by this provision there would be a constitutional prohibition against the licensing, and consequently against the sale of ardent spirits. The sale of liquor could not be had within the State, lawfully; the law prohibiting it without a license, and the power to grant a license being taken away. The law would stand in that manner until the Legislature came to take action on the subject. And when they did take action, they would find in the Constitution an inhibition to sell ardent spirits. They would look then for their powers: and what were they? It struck him, with this provision standing in the Constitution, they could do nothing at all. But he was not certain; they might provide that some authorities in towns should regulate the time and place of selling liquor, under certain penalties. They might say that. So that a certain “place” might be considered as a license—a permission to sell. Then the Legislature would have no power on the subject—they must permit it to be sold at every place and time, at which individuals might think proper to do so.

As to the evil of the sale of this article, he believed there was no difference of opinion about it. He would beg leave, however, to offer a few observations in relation to the connection which had been adverted to by some gentlemen, as existing between

intemperance and crime. It had happened in the course of his life, that he had been engaged in the trials of a great many men, for murder; some of whom had paid the forfeit with their lives; others had escaped conviction, and others had been condemned to imprisonment, and imprisoned for life. In the whole of these cases, he had not seen but one or two in which the use of ardent spirits had anything to do with the murder. In all the long catalogue of crime, intemperance was no part of the act, so far as his knowledge extended, unless it were in assaults and batteries, or crimes attended with immediate violence. In such cases as these, intemperance had had much to do. But in burglaries and larcenies, and such crimes as required a cool head to effect them, intemperance had very little to do with them at any time. The men who committed these crimes were, he might say, cool, temperate and sober men. And as he had said before, the crime which was accompanied with immediate violence, was connected with the use of spirituous liquors. Not so in the other cases, so far as his experience went.

However, if we struck out this section, we took from the Legislature the power to control this matter. Every man might ride loose, and all those who felt disposed to extract money from the degradation and the miseries of their fellows, could do so unrestrained, so far as any controlling power could be exercised. He thought it might be debateable whether the Legislature would have the power to restrain or prohibit. But in his mind, unless the Legislature had that power, it would be throwing the reins loose, and would let every man do as he saw fit in his own eye.

Mr. MOORE hoped the subject would be passed over until the select committee made their report. They would present arguments that might satisfy the Convention as to what would be the proper plan to pursue. He did not wish to delay the action or retard the progress of the Convention, but really desired to have this subject postponed until the report of the committee, when the Convention would be prepared to act and vote. If it were dangerous to insert this section in the constitution, or to strike it out, hasty action either way would be improper.

Mr. GALE said he did not intend to dis-

cuss the question before the Convention, but there were some points that had not been adverted to, to which he would call attention. What were the practical effects of the license system? What were these license laws worth? They were not of as much value as a humbug.

But he would briefly allude to the remarks of the gentleman from Wayne, [Mr. WITHERELL.] That gentleman had certainly obscured the question by his legal argument. He seemed apprehensive the constitution might conflict with the statutes, and, consequently, that a difficulty might arise. We were not adapting the constitution to the present laws, but the laws will have to be adapted to the provisions of the constitution. That gentleman's experience in regard to the connection existing between intemperance and crime, was the very reverse of what he [Mr. G.] had always heard and read. The statistics of crime would refute the argument based on the experience of that gentleman.

But was it the part of the Legislature to enact laws to be violated? And, as he before asked, what were the practical effects of the license system? If a town voted "no license," did it stop the sale of liquor, or even cause a less quantity to be used? No; so far as his experience went, it certainly did not. And when those engaged in selling without license were prosecuted, what was the result? They escaped punishment, managing in some way or other to elude the penalties of the law. At one time in Flint there were a number indicted for selling liquor, and when the trials came on every indictment was quashed. The expense to the town and county was considerable, yet no good resulted. He had been informed by a member from the county of Jackson that in one town they had attempted to enforce the law and put a stop to the sale of ardent spirits, and the result was they had to pay \$500 expense, without effecting their purpose. This was but an instance of what occurred in many other places.

No law should be enacted but what was intended to be carried into effect and strictly enforced. By permitting laws to remain on our statute books that were daily unheeded and openly violated, and allowing the persons to escape with impuni-

ty, the effect would be to bring all laws into disrepute. Experience in this matter was much better than theory. If they went to work on any fine spun theoretical matter, it would be very apt to lead to a bad result. Experience was the better guide.

Mr. BUTTERFIELD hoped the discussion would not be protracted at this time. There was a manifest impropriety in discussing this matter just now. All the petitions relative to this subject had been referred to a select committee, and that committee had the whole matter under consideration. They were also, so far as he knew, prepared to report in relation to this subject. He thought, then, if gentlemen had any confidence in the committee, they would wait for its report, and not by the action of the Convention, prevent the further action of that committee, and make it in effect a nullity. He hoped, then, that the subject would be postponed. He trusted that he would be found advocating the proposition made by the chairman of that special committee. He represented a particularly temperance community, and he hoped to represent not only his own wishes, but the wishes of his constituents in reference to this subject.

Mr. BAGG said the select committee had never been called together. It might possibly, from the action to-day, be called together, but members thought of going home—of adjourning at some time or other—(a voice, "never,")—and we could not delay action. When he found members differing so widely in opinion as to what kind of a provision should be adopted, he was willing to get rid of the subject at present in the best manner possible.

Mr. BRITAIN—I am aware that so much has been said on this subject, that I do not know if the Convention will give me its attention. I wish to accomplish that which the gentleman last up proposes to accomplish. I propose, however, to do so by means different from those proposed by the gentleman. The Convention, in committee of the whole, struck out the section with the understanding that it should be brought in in a separate article, and submitted to the people; at least, whatever was done upon the subject of selling ardent spirits, was to be in the shape of a separate question, and to be submitted to

the people as a separate question. It was with that understanding that I voted for the proposition to strike out. That motion was made by a gentleman distinguished in this body for his support of the temperance reformation. We still desire to adhere to this as the best method of accomplishing the object in view. And here I may be allowed to give the reasons which compel me to differ with some gentlemen who have given their opinions on the subject in this Convention. We are here making a constitution to be submitted to the people for their approbation or disapprobation. I desire to so submit it that it shall be entirely disconnected with any question that would embarrass their judgment and action upon it. I wish to save it from the operation of several fanaticisms. I desire to save it from the fanaticism produced by men who lecture upon temperance as a trade, because it is easier to support themselves in that way than by labor. I desire to save it from the fanaticism produced by the reformed drunkard, who, instead of "repenting in sackcloth and ashes" for his crimes, justifies himself, and, Adam-like, charges the whole fault upon the "rum-seller." I desire to save it from the fanaticism of those moral reformers who, possessing a "zeal which is not according to knowledge," and forgetting the divine injunction "to be subject to the higher powers, for the powers that be are ordained of God," weaken the confidence of the people in the wisdom and integrity of your most patriotic and enlightened statesmen, slander and degrade your laws, and through the license of a temperance lecture, invade the temple of human liberty, and attempt to enthrone therein a tyrant more intolerable than Nero himself.

I desire to save it from ultra republican fanaticism, for instance; or from that kind of fanaticism which is produced through designing political men. I desire, in fine, to free the Constitution from all improper influences; and that can only be done by keeping it unconnected with the question of temperance altogether, and submit *that* as a separate question for the consideration of the people.

Now, Mr. President, if the Convention will indulge me, I shall briefly present the reasons which induced me to this conclusion. The gentleman from St. Clair [Mr.

Mason] has told us that it is a simple proposition, and a very plain one. "The Legislature shall not have the power to pass any act to grant any license for the sale of ardent spirits, or other intoxicating liquors, as a drink or beverage."

Mr. MASON (in his seat)—I proposed to strike out the words "drink or beverage," and retain the balance of the section.

Mr. BRITAIN—The question, I suppose before the Convention, will be on striking out.

The PRESIDENT—The question is on striking out, a division of the question having been called for.

Mr. BRITAIN—I will beg permission to say a few words on this subject, as I have heretofore waited in silence, not only here, but during the previous session of the Legislature, in relation to this matter. This is the first time that I have made any observations on this subject; not because I did not feel an interest in the subject of temperance, nor because I did not know something about it; but because I was unwilling to trouble the Convention. The motion seems to be, to strike out that part of the proposition which prohibits the Legislature from authorizing the sale of ardent spirits "as a drink or beverage," and in lieu, to insert that it shall not be sold "except for medicinal and mechanical purposes." Now, sir, I am opposed to any one of those different questions being incorporated into this article of the Constitution. If any be incorporated, that one prohibiting the sale of liquor as a "drink or beverage" will be the least objectionable.

The general impression prevailing here appears to be that the license laws are the only authority people have, or have had, to sell liquor. And even when the gentleman from Wayne [Mr. WITHERELL] correctly stated the legal character of the case, gentlemen were unwilling to listen to him. Perhaps they may not be willing to listen to me. I ask now, where is there any prohibition of the sale of ardent spirits except that which is contained in the license laws? What is there to prevent a man from making and selling liquor, as freely as he can raise and sell wheat? I beg leave to assure this Convention that there is no prohibition whatever against selling liq-

tion, except what is contained in the license laws. Do the people know this? If they do they may be prepared to vote intelligently on the proposition of the gentleman from St. Clair. They do not know it; and when I speak thus, I speak that which I know. For I have been a temperance man a long time. I am a practical temperance man. I belong to all the various temperance organizations—to the Sons of Temperance—to the Washingtonians, and—

(A voice—Do you belong to the “Daughters?”—Laughter.)

Mr. BRITAIN—I have not that pleasure.—(A laugh.) Mr. President, I regret the disposition of some gentlemen to trifle with a subject which is surrounded with more difficulties than any other subject which has been presented to this Convention; but I am not to be drawn from my purpose. I know that the doctrine has been promulgated from one end of the State to the other, by temperance lecturers, that the Legislature which enacted the present license laws were guilty of creating that system under which all the vices of intemperance have been generated. I know this to be so.

Sir, I have heard it from high places, even before the present temperance excitement began. Yes sir, highly intelligent men, without taking the trouble of examining the subject, have drawn the erroneous conclusion that the laws under which all intoxicating liquors were sold were the only authorities for selling them, and that if they were repealed no sales could be made at all; when, in fact, if those laws were repealed any person in the land could make and sell. Under this inexcusable ignorance of the character of the law, there have been good men who have attempted to check the wide spreading evil of intemperance by restricting the sale of intoxicating liquors to a few well regulated houses, and compelling such houses to pay a tax to remunerate the people for maintaining said regulations.

These men, knowing that slander will be more readily received than commendation, have slandered, degraded and abused your laws; yes sir, even those laws which prohibit the sale of intoxicating liquors to minors and to drunkards, and which entirely prohibit the sale of them late at night and on the Sabbath day, and, in fact, which are

the only restrictions upon the unlimited sale of them. Are not these, so far as they go, good and wholesome laws? Perhaps they are not as good as they should be; but they are good laws—they are beneficial regulations, which have no existence except in those laws which prohibit all from selling except those who consent to take a license and submit to such regulations as the law imposes. These are the facts of the case.

But this is said to be “a plain, simple proposition.” Will the people so understand it? You put in your constitution a provision which prohibits the Legislature from licensing the sale of ardent spirits for any purpose whatever; and how many will understand that this proposition authorizes all persons to sell without restriction? And, if so understood, would it be popular on that account?

The temperance lecturers have taught the people all over the country that if you repeal the license laws there will be no authority to sell. Will they turn around and say it is not so? Can they make the people believe it if they do? Sir, they have so long taught the people that but for the license laws no liquor could be sold at all, that they cannot stop the current of public opinion which they have originated. Dare they attempt to stop it? If they do they must be crushed by it. For when public sentiment becomes moving in a certain direction it cannot be trifled with. It is like the flow of a mighty river, which may at last be checked when it meets its ocean, but which cannot be restrained by any impediment thrown in its channel.

We should, then, so far as possible, bring the deliberate opinion of the people to pass upon such propositions as we shall submit to them.

Mr. President, the first constitution of Wisconsin contained liberal exemption provisions and stringent banking provisions. The bankers were displeased with it, and resolved upon procuring its rejection by the people. They did not attack the banking restrictions, but they attacked the exemption privileges, and made thousands believe that the adoption of a constitution with such privileges of exemption would ruin the State. I passed through Wisconsin but a few days previous to the election at which their constitution was rejected,

and can therefore speak with confidence respecting it.

The constitution to which I have alluded was rejected. A second constitution was then formed containing provisions nearly similar to those rejected, and submitted to the people in separate propositions. This united the friends of each separate proposition and divided the enemies of the several propositions, and the constitution was adopted. There are thousands of people in Michigan who, regardless of the defects in the constitution, would vote for it merely because it contained this provision; and there are thousands who, regardless of its merits, would vote against it merely because it contained this provision; and certainly, Mr. President, no man of correct moral sentiments can contemplate with pleasure the submission with our constitution of a provision which could with perfect safety be submitted to the people alone, when its submission with the constitution will make thousands vote for or against it without reference to any other provision. But do not suppose that I sanction the sale of ardent spirits as a beverage. When that question comes up my vote will be at hand.

But I am anxious to learn what you propose to do with alcohol. Can you stop the manufacture of it for proper purposes, under the plea that the use of it as a beverage may sometimes occur? If you can, then you can stop the manufacture of iron, because sometimes it is manufactured into a bowie knife, with which life may be taken; or because a pistol made from it may be put to a man's head, and his brains blown out with it. The two cases are alike in character. How could we get along in chemistry or manufactures, without alcohol? The gentleman from Genesee [Mr. GALE] could have told us that you could not make your essences from your vegetable oils—that you cannot reduce your gums, or manufacture your ethers—you cannot manufacture your tinctures without the assistance of alcohol. You may go into a druggist's shop, and ask him how many of his drugs can be made without alcohol, and he will tell you about one-half of them.

(A voice—I did not vote for prohibition.)

Mr. BRITAIN—I was undertaking to

show that these things must be made—that this sale must be authorized, because this use of them must be had. Then, if its use must be had, its manufacture and sale must be had, unless the Convention wish to put it back into the hands of the druggists, and let it come into use as a general panacea and family medicine, (laughter) as it was twenty years ago. If it continue to be used, it must continue to be made and sold. Then how do you propose to sell it? You may prohibit the sale of ardent spirits for all except certain uses. You can perhaps do it in that way; and so far I am willing to go. You may then call it what law you please, but it will really be a license law if it permits sales. You may call it a prohibition law; and if the present law had been called a prohibition law, the people would have understood it better than they do now, and would have been better prepared to vote upon the subject than they are now. I will say here, in conclusion, that I cannot go for this proposition, if in any way connected with this constitution, but must have it in a separate article; so that there may be no means of deceiving the people, and that they may vote intelligently on the subject. Whatever the Convention may do, I hope they will concur in the amendment of the committee of the whole. If the special committee to which were referred petitions and resolutions on the subject of temperance, have not as yet considered the subject, it should not affect the question before the Convention, because they may hereafter report. If they do not, they may even be called upon by a resolution to report; and whatever they report may be submitted with the section under consideration as a separate proposition; and even if the committee fail to report altogether, every member must see that it forms no reason why this proposition should not be separately submitted.

Mr. President, I have said nothing of the multiplied evils of intemperance, and why should I? They have been felt by many, witnessed by all, and are desired by none; and I should consider myself wanting in courtesy to the Convention, were I to detain it in attempting to prove the existence of a fact so universally admitted as the degrading, demoralizing and blighting evils of intemperance.

Mr. DANFORTH moved the previous question.

Mr. WELLS—I hope the gentleman will withdraw the motion. I desire to make only a few remarks.

Mr. DANFORTH was tired of being bored with speeches on this subject, but he would withdraw the motion to accommodate the gentleman.

Mr. WELLS—I rise to call the attention of legal gentlemen, Mr. McClelland, Mr. Crary, the “harvest” gentleman of Wash-tenaw, [Mr. KINGSLEY,] and others, to this point: suppose we embody this section in the Constitution; it relates to future legislation. Suppose the next Legislature refuses to repeal the license laws; will not the same evils exist as at present? The section under consideration does not repeal the license system. Now I wish to know what will be the effect under the supposition I have stated.

Mr. VAN VALKENBURGH—Mr. President: I am sorry to bore the gentleman from Ingham, [Mr. DANFORTH,] but, sir, I feel in duty bound to discuss this question.

I don’t know that I understand the gentleman from Wayne, [Mr. BAGG,] who calls upon the *ultra* temperance men to come to the support of his measure. If the gentleman means whole-souled, thorough going, “died in the wool” temperance men. I answer as I have before told the gentleman, if my amendment fails, we shall most cheerfully aid in the adoption of his proposition; as we consider it a great desideratum to cut the State loose from this abominable traffic, and withdraw from it the protection of law, that we may be no more met by the rum-seller’s certificate of good moral character; his argument that he does it under the protection and according to law. I am, sir, for prohibiting at once and forever this abomination, this system of iniquity, and putting it under the proscriptive ban of the law, and place a mark upon the man who, in violation of public opinion and the law, shall still continue this traffic. Why not license other abominations and have the avails in the public treasury? It is, sir, the wages of iniquity, the price of blood, the prolific source of more wretchedness than war or famine; it is daily multiplying the widows, and the fatherless, crushed hearts and blighted

hopes, sending the deep wail of sorrow throughout our State, and the land is clad in the habiliments of mourning. And who upon this floor will refuse to record his vote to stay this torrent of wretchedness, and redeem our State from this blighting curse? I trust, sir, my amendment will prevail; that the good sense of this Convention will adopt it; that the friends of reform, while they adopt into the organic law other measures, calculated to advance the interests of the State and the happiness of our constituents, will not fail to sanction this measure, which in my opinion will do more to advance the objects of this Convention than all other measures combined. I say then, sir, to the gentleman from Wayne, [Mr. BAGG,] if my amendment does not prevail, I shall most cheerfully aid him in his. First, then, I go for my amendment, not only because it is my child—because I claim the paternity—but because I think it more comely, better calculated to promote the desired object, a more thorough measure of reform demanded by the friends of order and the advocates of virtue. I appeal, then, to the gentleman from Wayne to aid us; to come up to our help; to lend us the aid of his talents, and his influence, to sweep at once this monster evil from our State; let us not stop at any half-way house in this business. Let us be thorough, radical, *ultra* if you please; and we shall at once bind up the broken-hearted; pour the oil of gladness into the bruised spirit, and wipe the scorching tear from the fevered cheek of disconsolate ones.

The gentleman from Wayne [Mr. EATON] says alcohol is one of the greatest evils in the land, and that it is admitted by every gentleman upon this floor. I am glad to see this monster finds no advocates here; no apologists to screen him from our just indignation. What, then, hinders the accomplishment of our object? I call upon the gentleman from Wayne, I invoke members upon this floor, to aid us, one and all. Come up to the rescue and let us drive this monster from our midst; let us hoot him from the State—haunt him from the world.

Some gentlemen think all that is necessary may be effected by moral suasion, and inquire, will you abandon it? No sir, I answer, no, by no means. For there is

hope for the poor inebriate; yes, hope for the degraded drunkard, his heart is not all callous to the call of reason; although degraded and wretched, the deep fountains of sympathy are not all dried up; "he is a man for a' that, for a' that" The kindly influence, the watchful care of those he loves and respects may reclaim him; may bring him back to the path of virtue. Take him, then, kindly by the hand, lift him from the ditch, whisper words of comfort and encouragement in his ear; do all you can by moral suasion, by courtesy and by kindness, to bring him back to the path of virtue; to restore him to himself and to the world; to reinvest him with the spirit of a man. Thousands and thousands more have been redeemed in our own country from the infatuating cup, and now shine among the brightest constellations in the land.

Of the 300,000 sons of temperance in our land, 75,000 are reformed inebriates restored to society and the world, now valiently fighting the battles of temperance. The benign influence of this fraternity has done much, very much, to advance its humane objects. God speed them in their efforts. Use moral suasion, sir? Yes sir, I will with the poor drunkard, "while life and health and being lasts," do all I can to reclaim him from his cups and restore him to himself. Our country abounds with monuments, proud monuments, in favor of moral suasion.

If you have not done so, gentlemen of the Convention, I ask you to read the auto-biography of John B. Gough, who has recently lectured at Detroit—a reformed inebriate, a man who has done more for the reformation of the drunkard, perhaps, than any man now living. Reduced to penury and wretchedness, his broken hearted wife and her infant child both died. He says: "during the miserable hours of darkness I would steal from my lonely bed to the place where my dead wife and child lay, and in agony of soul pass my shaking hand over their cold faces, and then return to my bed after a draught of rum which I had obtained and had hidden under the pillow of my wretched couch." How signally is the wise man's description verified:—"Yea, thou shalt be as he that lieth down in the midst of the sea, or as he that lieth upon the top of the mart; they have

stricken me, thou shalt say, and I was not sick, they have beaten me and I felt it not; when I shall awake I will seek it yet again."

And yet this man, degraded as he was, has been redeemed from the influence of alcohol and is constantly employed for the reformation of the drunkard. But a few years since alcohol was the presiding god every where and on all occasions—in the social circle, in the public gathering, and at the funeral obsequies. So universal was the sale and use of alcohol that the language of the immortal Cowper was literally applicable to us:

"Pass where we may, through city or through town,
Village or hamlet of this merry land,
Though lean and beggared, every twentieth pace
Conducts the unguarded nose to such a whiff
Of stale debauch, forth issuing from the styres
That law hath licensed, as makes temperance reel."

Yes sir, and intemperance rioted through the length and breadth of our land, and spread its dark and dismal pall over all that was fair and lovely and of good report. Where is the State, community, family or individual who has not in some way suffered under this burning, blighting scourge.

I ask gentlemen upon this floor, who of you has not suffered in some way from this giant evil? Who has not in person, in property, in family or friends, mourned over his ravages? Who has not seen the grave close over some loved object, stricken down by this monster? And shall we countenance this traffic? Shall we be content with preventing its legalized sale? Can we do so, and answer to our consciences and our God? The gentleman from Berrien [Mr. BRITAIN] tells us we are all ignorant upon this subject; he tells us there are many salutary provisions enacted to regulate the sale, and restrain the traffic; to prevent the sale on the Sabbath, in the night, to apprentices, &c., &c. And the gentleman fears we are going too far; that public opinion will not sustain us. He tells us, "if public sentiment contains error, we must shape our laws to meet the error." I would ask the gentleman in what school of ethics he has imbibed this doctrine, where his system of morals are inculcated? Abominable! He tells us he is a thorough temperance man, and understands it in its length and breadth; that he is a member of all the temperance societies extant,

from the Washingtonians to the Sons of Temperance; and when the gentleman from Geresee rises in his place and tells us he is opposed to prohibiting the sale, the gentleman from Berrien tells him he is glad to hear it, and most eloquently advocates the manufacture and sale. He tells us we must not prohibit the sale; no, by no means. I do not understand these temperance men. I have not so learned temperance. Sir, we owe it to ourselves, to the manufacturers and venders of alcohol, to the world at large, that we adopt this provision in the Constitution. Like the fabled Upas, intemperance is spreading its withering blight on all around, and is the acknowledged cause of more wretchedness and misery than all other causes combined. It arms the midnight robber and the assassin, and speeds on the incendiary to his deeds of darkness. I was surprised, sir, to hear the testimony of the learned judge from your county, [Judge WITHERELL.] He tells us he has had much experience in criminal jurisprudence; and that his experience is diverse from the experience of gentlemen upon this floor, and from the universal experience of all other legal gentlemen, so far as I have been able to learn it.

I, too, sir, have had some experience and some observation on this subject, and my experience and observation fully sustains that of others who have borne testimony, that more than three-fourths of all our pauperism and crime are the result of intemperance. After an examination in 1836 and 1837, made in the State of New York, it was made apparent that 400 out of 880 maniacs in the asylum, lost their reason through the use of intoxicating liquors; that 1700 out of 1900 paupers in the poor houses, that 1300 out of 1700 criminals in their prisons, owed their pauperism and crime to the same cause; that 43 out of 44 murders were committed under the influence of alcoholic liquors; that 67 out of 77 found dead, died of drunkenness; and that 400 out of 690 juvenile delinquents, either drank themselves or belonged to families that did so.

"I have shown," says the indefatigable Chipman, "I have shown beyond the power of contradiction, after visiting all the poor houses and prisons in the State, that more than three-fourths of all the pauper-

ism is caused by intemperance; and that more than five-sixths of all those committed for crime are themselves intemperate. In no poor house have I failed to find the wife, the widow or the children of the drunkard." What an appalling picture—what an accumulation of wretchedness and misery, the result of this traffic.

The manufacturers and venders of alcohol in this nineteenth century are incurring a fearful responsibility, and are of all men most to be pitied. They are sporting upon the verge of a maelstrom which will prove their ruin. We have kindly reasoned with them—we have pointed them to the broken hearts and crushed hopes of their victims—we have besought them, by all that is dear in life and all their hopes of the future, to forbear; but they have bowed to mammon—they scorn our arguments and laugh at our entreaties—they cry "give, give," and are not satisfied until the last farthing is abstracted from the pocket of their victim, and he cast out upon the world a loathsome object, to wander a wretched vagabond, until he finds a drunkard's grave. Tell me not of moral suasion with liquor venders in this age of the world; the law, the *law* is the only agent that can reach their sympathies. Men who, for paltry pelf, reckless of consequences, with the broad light of Heaven crossing their pathway, still deal out the accursed poison in defiance of the Almighty; for it is written "woe unto him who giveth his neighbor drink, that putteth thy bottle to him and maketh him drunken: drink thou also and be drunken, and shameful spewing shall be upon thy glory." Ah, how often has this prophecy been verified? how many manufacturers and venders have become drunkards and followed their deluded victims to the drunkard's doom and the drunkard's hell? The lamented Judge Platt, formerly of the Supreme Court of the State of New York, well known to legal gentlemen upon this floor, once said that three-fourths of all the tavern keepers in that State for forty years previous had involved themselves and their families in ruin, and died drunkards. What an appalling picture! And who that has given this subject his attention will not fully endorse it? If you have not thought of it, gentlemen, look about you and inquire the fate of liquor

dealers of your acquaintance for a given period, and give us the result. And have we no duty to perform to these men? De-luded and self-deceived, they are madly rushing on to ruin. And do you still urge moral suasion as the remedy. You might as well

*"Stem the rapid stream with sand,
Or fetter flame with flaxen band,"*

As attempt to reason these men out of the traffic. The god of this world has blinded their eyes, and they pursue their object, though it be over the wreck of all human hopes.

At a meeting in the city of Boston some-time since, a reformed inebriate made the following statement: "I began to drink rum at twelve years of age. A rich man in this city (I do not name him) sold rum to me when I was not tall enough to reach the top of the counter. I had eleven companions, all healthy young men—all doing well in one business. We used to drink and gamble. We continued this course for some time; and now what is the history of us twelve? Six have died drunkards; two have enlisted in State ships; two are in the house of correction; one is a drunkard still; and I, I alone have escaped to tell you. Who was it?" exclaimed the young man, "who have for these many years sold us rum? Of them, in the sight of God, I demand those who have gone down to a drunkard's grave, or are living the drunkard's life. Where, where are my companions?" Here his voice was interrupted by convulsive sobbings. May not the family of the demented maniac and infuriated murderer demand their lost ones of the liquor vender? And will they not be held responsible in the sight of God for all the wretchedness and ruin—all the crime and blood caused by their unholy traffic? If we have no sympathy for our fellow men, are we ourselves safe? Are our sons and daughters safe from the exactions of this fell monster? May we not have cause ourselves to mourn over our apathy on this occasion, if we refuse to do our duty?

The delegate from Kent, sir, [Mr. CHURCH,] has told us the law is powerless to restrain this practice. That under the existing law of this State, prosecutions were commenced in his neighborhood—

that he engaged for the defendants upon a good fee; and that the rum-sellers triumphed over the law—justice was defeated, and the law trampled upon. I cannot say, sir, as to the operation of the law in this State; but the law here I believe is a transcript of the law of New York; and in that State, while the law was in existence, we found no difficulty in enforcing the penalties. In the town in which I resided, the sale of alcohol has been for these many years prohibited, except in one or two cases, in which the officers entrusted with this matter proved faithless to their promises. After we had for a long time banished alcohol, a man from the adjoining county rented a tenement in our village, took possession of it, arranged tastefully his bottles, hung out his decoy light, and gave notice to the temperance men he would sell the "creature" in spite of them. A committee was appointed to wait upon him and inform him it was offensive to the community; and that unless he refrained from the violation of the law, we should call it to award and try its virtue. He laughed at us, and continued the traffic. A bailiff was soon dispatched to invite his attendance in a justice's court. On the day of trial he appeared with great pomp and parade, accompanied by counsel from the adjoining county, with a threat, (in the language of the delegate from St. Joseph,) to blow us sky-high. We were undismayed, proceeded quietly with the trial, and obtained judgment against him for the penalty; after which he appeared rather crest-fallen, but gave us notice he should appeal the cause. We assured him we should be happy to meet him, and should not at all object to a little additional cost from him. Time passed on, and just before the thirty days elapsed for the issuing of the execution, our landlord had a merry making at his house; the sound of the viol and the dance was heard; and when the company dispersed, our brave Pitcher, for that was his name, disappeared, bag and baggage. In the morning the house was found vacated, and we heard no more from Pitcher. He left his landlord minus his rent, and the town minus his society and the penalty, with which we were perfectly satisfied. Since that time no more difficulty has been experienced, and no more Pitchers have intruded upon them. In the town in which

I now live, sir, no alcohol is sold, and I trust there never will be.

There was a time, Mr. President, when, looking at this subject, my heart has mis-given me and my courage has faltered—when I have thought upon the difficulties which encompass it, the influences to be overcome, the strong appetite, the incorrigible habits, the popular voice, I have trembled for my country. But as I look back for twenty years past, and remember our country as it then was—one unbroken phalanx in the broad road of intemperance; as I notice the progress which has been made, and count the trophies of the cause, I no longer doubt. Who so faithless as to doubt our success? Who, to-day, in this intelligent Convention, will refuse to give his influence in our behalf? Who refuse to cast his vote in favor of this cause? “Who will be a coward knave, let him turn and flee.”

The cause of temperance is a holy cause, and its progress is onward. I hope, I expect to see our State and the world purged from this plague spot, redeemed from this burning scourge. Let us, gentlemen of the Convention, be true to ourselves, true to our constituents, true to our country; let us adopt this provision in our organic law, and we shall do much to promote the interests, social, moral and political, of our country, and secure to ourselves the benedictions of the wise and the good.

Mr. DANFORTH moved the previous question.

Mr. WITHERELL—I trust the gentleman will withdraw the motion, to enable me to make a few remarks. I will detain the Convention only a few moments, and will renew the call for the previous question before taking my seat.

Mr. DANFORTH—If the gentleman will make a motion for the previous question before taking his seat, I will withdraw the motion.

Mr. W. agreed to make the motion, and Mr. D. withdrew his motion.

Mr. WITHERELL said he was a temperance man, only he was not in favor of the proposition before the Convention. What he had said his experience was in regard to the connection existing between intemperance and crime, he renewed. He could not give his consent to the proposition under consideration, although he claimed

to be a good temperance man, and desired to prosper the cause as much as possible. He renewed the motion for the previous question.

At the request of Mr. MASON the motion was withdrawn.

Mr. MASON desired to offer a few observations in relation to the position assumed by the gentleman from Berrien, [Mr. BRITAIN.] The gentleman told us that the friends of temperance had misrepresented the efficacy of the license laws. So far as his [Mr. M's] experience went, the license laws, as they existed at present, had been deemed odious, both by the friends and the enemies of intemperance. He knew from his experience that the friends of temperance had disapproved of them. For, when a vote came to be taken in a township, and the vote was in favor of licences, the authorities were forced to put the law into operation, and thus the sale of liquor obtains a respectability. Gentlemen had talked about that subject understandingly. No one pretended to say that if there were no license law, every one would be permitted to sell liquors. That was the experiment which he desired to try; he desired to see whether public opinion would correct this evil or not.

He wished to ask the gentleman from Wayne, [Mr. WITHERELL,] if a crime—such as perjury—had not been in some instances connected with intemperance? He wished to know where the main absorbing question was license or no license—where political parties had been broken up by means of this question, as in his own county, where there was a democratic majority of 150, and yet elected a whig supervisor, by reason of this question—he wished to know if the gentleman had not seen persons going up to the polls dressed as citizens, and vote in favor of licenses, although they had no right to record any vote? He had seen such persons go up to the ballot box, and by their illegal votes put this odious system upon the people.

This provision did not prevent the Convention from submitting the question as to whether the Legislature should prohibit the sale of ardent spirits, or not. For his part, he would be very glad to submit the question to the people.

The gentleman from Kalamazoo [Mr. WELLS] inquired how would it be if the

Legislature should refuse to repeal the license law? Why, in regard to that, it was mere'y necessary to say that all laws must be consistent with the provisions of this constitution. But it was not to be supposed, however, that the Legislature would not act in obedience to the constitution. But, if it did not, it would be no worse than the sale was now. At any rate, the Legislature would be empowered to prohibit it at all times. They were not stopped by this provision from regulating and providing pains or penalties, or excise on the sale of liquor, if in their wisdom they should see necessary. We left them at liberty to suppress it at all times; but we said they should not sanction it by public authority. They should not make it respectable by such countenance. He took it that, according to the proposition, "people of respectability and good moral character," applied equally to all. He did not know by what mode we could decide as to the respectability of a man, in view of the proposition; whether by the size of his house or by the quality of his liquors.—(Laughter.) The calling was equally honorable to the man who kept a four storied house or a petty groggery. It was equal in principle. He hoped, then, seeing that the retention of the amendment of the committee would not interfere with the submission of any proposition to the people on this subject, that the Legislature shall not place the impress of public sanction upon this traffic.

Mr. MOORE would occupy only a moment of the time of the Convention. There was one important principle that had not been touched upon; which was, that the license laws granted exclusive privileges to a certain class of men. This was contrary to democratic principles, from banking down to the most petty questions. Nothing should be countenanced that gave exclusive privileges to any class. He hoped it would be left to the Legislature to adopt such a course in regard to the matter as in their wisdom might seem best.

Mr. J. D. PIERCE expressed his concurrence in the remarks of the gentleman from St. Clair, [Mr. MASON.] He was opposed *in toto* to granting exclusive privileges to any one class. He had simply to say in regard to this question, that he thought that the proposition together with

the amendments which had been presented would be sufficient. With that view he would vote against the amendment of the committee of the whole, striking out, and would vote for the amendment to the proposition, and for the proposition when so amended.

Mr. WOODMAN observed that so far as he understood the wishes of his constituents, they were decidedly against the Legislature sanctioning the sale of ardent spirits.

Mr. HANSCOM hoped that his colleague [Mr. VAN VALKENBURGH] would withdraw his proposition. He would support the proposition as originally proposed by the committee. So far as his observation went, he was of opinion that it met the tone of public sentiment in his portion of the State. But we should recollect that the constitution we were about to submit to the people was a dead letter until the citizens of this State had breathed into it the breath of life. And he thought we had done enough already to endanger the success of the instrument before the people, without going any further. It occurred to him that if we put such a stringent provision as this in the constitution, it, together with other matters, would go far to endanger the entire fabric. If his colleague would withdraw his proposition and let us come at a direct vote on the concurrence or non-concurrence with the committee, we would arrive at the best conclusion in relation to this subject. And if the select committee on the subject say that the sale of liquor should be prohibited by the Legislature or not, he would concur in their conclusion.

If this article were to be sold at all, why not leave its sale open to all? But if it be a fact that a man paid into the treasury a certain amount for the liberty to destroy his fellow men, why then inhibit it altogether. Cut loose the treasury from the receipt of moneys that were coined by the tears and blood of the widows and orphans of the State. Was it right that our government should receive support from such a source? If it were not right, then do away with the entire receipt of revenue from this source.

He would support the provision originally reported, with the amendment suggested by the gentleman from Calhoun. He

would adopt this course in order that the result of their labors should not be endangered before the people.

Mr. COMSTOCK said, as I shall be called upon to give my vote upon the section under consideration, I wish to give my reasons for the same. I am a friend to the cause of temperance, and for the very reason offered by the gentleman from Oakland, [Mr. HANSCOM.] I am opposed to the amendment offered by the gentleman from Oakland, [Mr. VAN VALKENBURGH,] and also to the section proposed to be inserted, for the reason that it will endanger the ratification of the constitution by the people. And further, you have a special committee appointed for the purpose of taking into consideration the whole subject, and who are expected to report an article to meet the case, to be submitted for the distinct action of the people. This can then be done with safety, and without endangering the whole fabric of the constitution. I shall, therefore, for these reasons, vote against the amendment and section proposed to be reinstated. And I would further add, that I do not think the section proposed to be introduced will aid the cause of temperance, but have a tendency to give license to a wholesale traffic, without stint or limit.

Mr. FRALICK said, as he had been requested, he would make a short statement in regard to his section of the country. Eight or ten years ago there were some twenty places at which liquor was sold in the town. It was a notorious drinking place; but since the license laws went into operation they had effectually stopped the sale of liquor. He had the honor of being supervisor of that town when five cases were prosecuted successfully against liquor venders. One paid the fine, and the others stopped the sale entirely. Last spring, when 600 votes were polled, only thirteen were given for "license."

Mr. MOORE here stated that he had just received a petition in regard to the traffic in ardent spirits, which he would be glad to have read, as the question would probably be soon disposed of.

The petition was sent up to the Secretary and read by him.

Mr. CORNELL was opposed to the amendment presented by the gentleman from Oakland, [Mr. VAN VALKENBURGH,]

He was in favor of the provision reported by the committee, except the last clause; and that, gentlemen had proposed to strike out hereafter. To that he was opposed, because it would leave open the door wide, to evade the law. And he would here say, that he was opposed to our present license laws, because they were a dead letter on our statute book. He was opposed to them because not only his constituents, but the people at large, disapproved of the present laws. Their opinion, so far as he understood it, went to this point: that the Legislature should not have the power to grant licenses. But there was another reason to be taken into consideration—the license laws, if they did not favor a corporation and exclusive privileges, yet built up a sort of corporation. It was true there were different interests involved, but liquor dealers had but one object and aim in view.

Now, in regard to the selection of respectable men of moral character to whom was to be committed the sale of liquors, what effect had it on these very men? Statistics showed us, from every section of the country, that one-half or two-thirds of these men engaged in the sale of ardent spirits, became almost confirmed drunkards, entailing every misery on their families. Should we have a law that would break down the best part of our community? Should we recognize a law such as would break them down physically and morally? It was granted on all hands that this traffic was an evil; and why, then, select those men—good men—to carry it into operation? There were other details with which he was quite familiar, but which it was not necessary he should enter into now. He, like the gentleman from Berrien, was a temperance man, and he was a temperance man before there was a temperance society in the State. He thought he had gone a little farther than the gentleman had, for he said he did not belong to the Daughters of Temperance—he [Mr. C.] did. (Laughter.)

The question being upon striking out and inserting, and a division of the question being demanded, the motion to strike out prevailed.

The question then recurred on inserting the amendment offered by the gentleman from Oakland, [Mr. VAN VALKENBURGH,]

on which question Mr. VAN V. demanded the yeas and nays, and the same were ordered. At the suggestion, however, of Messrs. PIERCE and CORNELL, the amendment was understood to be withdrawn.

Mr. BRITAIN moved to amend by adding to the section the words "and this section shall be submitted to the people as a separate question."

Mr. S. CLARK—Does the amendment of the gentleman from Berrien [Mr. BRITAIN] apply to the section, or to the amendment of the gentleman from Oakland, [Mr. VAN VALKENBURGH?]

The PRESIDENT replied that the chair understood the latter amendment to have been withdrawn.

Mr. VAN VALKENBURGH—No sir; the call for the yeas and nays was withdrawn, but I did not withdraw the amendment.

Several members—We understood the amendment to have been withdrawn.

Mr. VAN VALKENBURGH—I requested the yeas and nays to be taken on my amendment, and the gentleman from Calhoun [Mr. J. D. PIERCE] then asked me to withdraw that call, which I did.

Mr. J. D. PIERCE—It was the amendment that I asked to be withdrawn.

Mr. VAN VALKENBURGH—I did not so understand it.

Mr. CORNELL—I asked the gentleman to withdraw the amendment. Perhaps the gentleman misunderstood me.

The PRESIDENT remarked that the chair, like other members of the Convention, understood the gentleman to have withdrawn the amendment.

After some further cursory remarks, the question pending was decided to be upon Mr. BRITAIN's amendment; and the yeas and nays having been ordered, resulted as follows:

YEAS—Messrs. Alvord, Arzeno, Beeson, Britain, Alvarado Brown, Ammon Brown, Asahel Brown, Burns, Butterfield, Carr, Choate, Cook, Fralick, Green, Redfield, Roberts, Robertson, M. Robinson, Storey, Town, Walker, Webster, Wells, Willard, Witherell—26.

NAYS—Messrs. W. Adams, Anderson, Axford, Backus, Bagg, Barnard, H. Bartow, Beardsley, Bush, Chandler, Church, S. Clark, Comstock, Conner, Cornell, Crary, Crouse, Danforth, Desnoyers, Dimond,

Eastman, Eaton, Edmunds, Gale, Gibson, Graham, Hanscom, Hart, Harvey, Hascall, Hixon, Kingsley, Kinne, Lee, Lovell, Marvin, Mason, McClelland, McLeod, Moore, Morrison, Mosher, Mowry, Newberry, O'Brien, Orr, J. D. Pierce, N. Pierce, Prevost, E. S. Robinson, Rix Robinson, Skinner, Soule, Sturgis, Sutherland, Tiffany, Van Valkenburgh, Warden, White, Whipple, Whitemore, Williams, Woodman, President—64.

So the amendment was not adopted.

Mr. VAN VALKENBURGH then renewed his proposition, and the yeas and nays being had on the same, resulted as follows:

YEAS—Messrs. H. Bartow, Butterfield, Fralick, Gardiner, Lovell, Mowry, Roberts, Rix Robinson, Skinner, Sturgis, Van Valkenburgh, Wells, President—13.

NAYS—Messrs. W. Adams, Alvord, Anderson, Arzeno, Axford, Backus, Bagg, Barnard, Beardsley, Beeson, Britain, Alvarado Brown, Ammon Brown, Asahel Brown, Bush, Carr, Chandler, Choate, Church, S. Clark, Conner, Cook, Cornell, Crary, Crouse, Danforth, Desnoyers, Dimond, Eastman, Eaton, Edmunds, Gale, Gibson, Graham, Green, Hanscom, Hart, Harvey, Hascall, Kingsley, Kinne, Lee, Marvin, Mason, McClelland, McLeod, Morrison, Mosher, Newberry, O'Brien, J. D. Pierce, N. Pierce, Redfield, Robertson, E. S. Robinson, Soule, Storey, Sullivan, Sutherland, Tiffany, Town, Walker, Webster, White, Whipple, Whitemore, Williams, Willard, Woodman—70.

The question then being on concurring with the committee of the whole in striking out the section, (39th,) the yeas and nays were ordered, and resulted as follows:

YEAS—Messrs. Alvord, Arzeno, Axford, Beeson, Britain, Ammon Brown, Chapel, Choate, Church, Cook, Danforth, Desnoyers, Hathaway, McClelland, Mosher, Redfield, Roberts, Robertson, E. S. Robinson, M. Robinson, Rix Robinson, Storey, Tiffany, Town, Walker, Witherell, President—27.

NAYS—Messrs. W. Adams, Anderson, Backus, Bagg, Barnard, H. Bartow, Beardsley, Alvarado Brown, Asahel Brown, Burns, Bush, Butterfield, Carr, Chandler, S. Clark, Comstock, Conner, Cornell, Crary, Crouse, Daniels, Dimond,

Eastman, Eaton, Edmunds, Fralick, Gale, Gardiner, Gibson, Graham, Green, Hanscom, Hart, Harvey, Hascall, Hixon, Kingsley, Kinne, Lee, Lovell, Marvin, Mason, McLeod, Moore, Morrison, Mowry, Newberry, O'Brien, J. D. Pierce, N. Pierce, Skinner, Soule, Sturgis, Sullivan, Sutherland, Van Valkenburgh, Warden, Webster, Wells, White, Whipple, Whittemore, Williams, Willard, Woodman—65.

So the amendment was not concurred in.

On motion of Mr. McCLELLAND, the second section of the article was amended by striking out in the last line the word "four," and inserting in lieu thereof the word "two."

The proposition made by the gentleman from Oakland, [Mr. HANSCOM,] relative to the recommittal of the article on the Legislative Department, with instructions, (which had by consent been passed over,) was then taken under consideration.

A division of the question being called for, the same turned on recommitting.

Mr. HANSCOM said it was due, perhaps, to the Convention, that he should explain the reasons which induced him to propose the recommittal of this article, with instructions. He thought, in the first place, that it would save the time of the Convention to recommit, rather than that he should propose the various amendments which he thought necessary to be made, in the progress of our business. The Convention of course might decide against recommitting, and thus cut the entire matter off.

He thought the number of Senators contemplated by the article reported as too large. He had stated in the first instance that he thought the number of Senators and Representatives provided for by this article, was unnecessarily large. Eighty members of the Legislature of this State, in the popular branch, were, in his judgment, as many as the exigencies of this State would require for the next twenty years, or fifty years, or perhaps ever require. And, by electing this number, a principle of economy—which he did not regard of very great importance—was to some extent consulted. Taking into consideration the other changes proposed to be made, there would be a saving of about one-sixth.

The same objection applied to the Senate as to the House of Representatives. So far as his experience of the Legislatures of other States extended, he found that the business of those bodies was committed to the hands of but a few members. Take, for instance, the State of Massachusetts, which had an immense representation in the popular branch of the Legislature. Any man who had sat there for a day must have seen that a vast amount of the business was transacted by committees. So that it was easily perceived that with convenience the amount of representation might be cut down to one-half or one-fourth of the present amount.

He proposed to amend the third section by striking out the provision; as it now stood it was vague and uncertain. As he took the provision, it read, "every organized county containing 2,000 inhabitants, shall be entitled to one Representative." An uncertainty might take place as to a county organization. In effect, this: whether the organization was one merely on paper, or effected by the election of county officers. His object was to place it beyond all uncertainty in regard to the organization of counties, to be entitled to a Representative at the election in 1851. He proposed also to leave open to the people of coming time the mode and manner of electing their Senators, &c. [Indistinctly heard.] The public sentiment of this State had always looked upon the single senatorial measure as an evil. He, for one, was unwilling to tie up the hands of the people of the State, and give the Legislature the power to impose a system which as yet had not been imposed on this people, and one which had not been thoroughly experienced. If, as gentlemen said, the public sentiment demanded this change, the action of the legislature no doubt would be found corresponding with that sentiment. The people would elect their Representatives in reference to that subject; and would instruct them in relation to it, until they acted in accordance with their wishes. Again: he was opposed to small districts for Senatorial purposes. It occurred to him that counties should elect by districts, and not have them cut up into small parts for election purposes. It was for that reason he proposed to introduce that provision, so that the people in Oakland might

go to the polls and elect on a general ticket for that number of Senators that the Legislature might choose to give them.

In section fifteen he proposed to strike out the words "three-fourths," and insert instead, "a majority," for the reasons which he had given in committee. A reasonable negative, or rather a limited veto, he approved of; but this was an almost absolute prohibition; it placed the executive department of the government over the legislative.

Then, in the 20th section he proposed to strike out at the end of the section the words "and for one year thereafter." That question had been very fully discussed in committee. But he would here say, that the office of Representative in the Legislature was not going to be a very grave, or a very important one, under the provision we were now establishing. He thought it was a perfectly useless one. It was one that completely disfranchised men of their rights as citizens, for one year after their term of office as a legislator had expired; and it was a provision that would operate as a bar against obtaining the services of such men as we required in our legislative bodies.

In the 23d section, strike out the words "all the members elected to."

In the 25th section he proposed to strike out all that portion of it which had reference to the details of printing, and which undertook to impose terms upon those engaging in the public printing of the State. It appeared to him to be very questionable to run into matters of this kind. As was remarked by the gentleman from Washtenaw, [Mr. GARDINER,] he thought the insertion of such a provision would endanger the "craft." Notwithstanding all that had been said against them, he respected them very much as a class. The printer had ever been held as a most important and useful member of the community, by reason of the nature of his labors. Then, would we undertake to send forth to the world that our craft in Michigan, and our Legislature, are so knavish that we must tie them down by this provision? Why not fix the contract in relation to the binding of your laws, as to provide for printing them? There was just as much propriety in the one as in the other. Such a

provision would work badly, and would operate oppressively in practice. He felt that the good sense of this Convention, when they looked at the matter, would see the obvious propriety of not placing it here.

The 38th section read: "No appropriation of the public money shall be made for the publication of the laws of this State in any newspaper." He proposed to strike out that section. He conceived that it was very expedient that the laws should be published in some newspapers having a large circulation: for instance, in the Detroit papers. He used the word Detroit, because it was now the commercial metropolis of the State; and the papers of that city had a larger circulation than papers in other parts of the State. At least, for years to come they would have the most extended circulation. He would also propose to publish the laws in the paper published at the seat of government, as it was supposed it would be exchanged with all the other papers in the State. But it might be said, and was said, that the people would not read those papers. We could not help that; it was their own fault if they did not. We provided a cheap means for the people to obtain useful knowledge in relation to the laws; and if they did not avail themselves of it, it was to their own injury. These were his general views in relation to this article. He did not intend to occupy any time, more than to make an explanation. He hoped the article would be re-committed, and that some, if not all of the amendments which he suggested, would be made.

Mr. McCLELLAND—I am opposed to the motion of the gentleman from Oakland, [Mr. HANSCOM,] to recommit this article with the instructions he suggests. There are some of its features I do not approve, but after the full discussion that has been had on all the objectionable portions, I am content to submit. In many of the remarks of the gentleman I concur; but it is too late to refer the subject; and if we did, it is very doubtful whether it could be put in better shape. His suggestion as to the number of members of the House and Senate is similar to the provision in the old constitution, and not so definite or satisfactory as the one in the article under consideration.

The question as to single senatorial districts is well understood, and the minds of members are fixed and settled, and no change can be anticipated. I co-operated with the gentleman in his opposition to this; but we have been thoroughly thrashed; and in such case it is the part of wisdom to yield with as good grace as possible. I agreed with him, that a county should not be divided in the formation of districts, in connection with the single senatorial district question, but we were overruled by the majority, and I, for one, object no further.

The gentleman says that the veto of the Governor is to be controlled by two-thirds of the members elected, and therefore takes exception to this provision. This question has been agitated for many years, and the people are perfectly conversant with it, and with a unanimity almost unparalleled, it has been decided that it should remain as it is.

Mr. HANSCOM, (interposing,) inquired in what State it was required that there should be a vote of two-thirds of the members elected, to overrule an executive veto?

Mr. McCLELLAND—The word employed in the original section was "present;" but it was stricken out, and the Convention inserted in lieu thereof, the word "elected." This is preferable to adopting the suggestion of the gentleman, and permitting a "mere majority" to override a veto.

The 20th section, I think, is misunderstood by the gentleman. If he will turn to it, he will find that he has misconstrued it. The words "one year thereafter," relate only to the last clause of the section, reading thus: "Nor shall any member of the Legislature be interested, either directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the time for which he shall have been elected, and for one year thereafter." If the language be not sufficiently plain and distinct, it can be changed so as more strongly to express the idea intended; but the object to be accomplished should not be abandoned. It is proper that a Representative should be prohibited from being interested or participating in any contract, under a law which was passed by the Legislature of which he was a member, du-

ring his term, and for a year thereafter, so that his action may be entirely disinterested.

In the 23d section, he proposes to strike out the words "all the members elected to." The committee intended to make that provision as strong as practicable, so as to prevent the mischief that had resulted from the practice of having important general laws take effect from and after their passage. Instances of this kind are not wanting in this State, and I gave illustrations before of the evils resulting from it. Under the operation of the present constitution, and the rules of the two houses, it is an easy matter to put in the clause that is usually engrafted upon such bills—"that this act shall take effect from and after its passage,"—unnoticed by the members. We considered it right and useful thus to call the attention of members to it, so that if an act was passed containing such clause, they could not say "we were not aware of it and had no notice of it."

In relation to that portion of the 25th section which owes its paternity to the gentleman from Kalamazoo, [Mr. HASCALL,] as far as I understand it, I am well pleased with it. Yet, I confess I do not understand the whole sufficiently to vote for engrafting it upon the constitution. A motion to reconsider this is in order, and if reconsidered, and a motion made to strike it out, I will go with the gentleman. It is a project worthy the consideration of the Legislature, and the experiment might there be safely tested, as it appears to have much virtue in it. Although it strikes me favorably, yet, as I remarked on another occasion, I am opposed to inserting anything in the fundamental law which has not been fully tried.

As to the 38th section, my votes yesterday showed my concurrence with the gentleman. I looked upon the provision as unwise and impolitic, and calculated to involve us in difficulty and embarrassment; but the Convention thought differently, and as in the other cases, I bow to their decision.

And now, sir, as the gentleman and myself have in most cases so cordially co-operated with each other, and have contended so fiercely for every inch we have lost, let us rest content, and take our defeat as philosophically as possible.

The question being on recommitting, (a division of the question having been previously called for,) the same was put, and the yeas and nays having been ordered, resulted as follows:

YEAS—Messrs. Alvord, Beardsley, Crarry, Church, Crouse, Eastman, Gardiner, Hanscom, Hart, McLeod, J. D. Pierce, Roberts, Rix Robinson, Storey, Sturgis, Sutherland, White, Whipple, President—21.

NAYS—Messrs. W. Adams, Anderson, Arzeno, Axford, Backus, Barnard, H. Bartow, Beeson, Britain, Alvarado Brown, Ammon Brown, Burns, Bush, Butterfield, Carr, Chandler, Chapel, Choate, S. Clark, Comstock, Conner, Cook, Cornell, Daniels, Desnoyers, Dimond, Eaton, Edmunds, Fralick, Gale, Gibson, Graham, Green, Harvey, Hascall, Hathaway, Hixon, Kingsley, Kinne, Lovell, Marvin, Mason, McClelland, Moore, Morrison, Mosher, Mowry, Newberry, N. Pierce, Redfield, Robertson, E. S. Robinson, M. Robinson, Skinner, Soule, Sullivan, Tiffany, Town, Van Valkenburgh, Walker, Warden, Webster, Wells, Whittemore, Williams, Willard, Witherell, Woodman—68.

Mr. SUTHERLAND moved that the vote by which the Convention concurred in the amendment made in committee to section 3, be reconsidered.

Mr. S. stated that his object was to reduce to a certainty, what was left open to doubtful construction. The action of the Convention had been favorable to the new counties, and he only wished to have the proper construction placed on the section, in regard to the organization of counties. The amendment proposed by the gentleman from Oakland [Mr. HANSCOM] would remedy the doubt. Two counties in his portion of the State would elect their county officers in November, and they would enter on their official duties in 1851, and he wished them to have a Representative, beyond any doubt.

Mr. SULLIVAN inquired how many counties there were thus organized. He understood there were several, and the effect would be to give some six or eight members to counties at present unorganized.

Mr. MASON hoped the motion to reconsider would not prevail. He thought the gentleman from Saginaw [Mr. SUTHERLAND]

could attain his object by a motion to amend. There were four counties in the upper peninsula with a paper organization, and the effect would be—

At this point Mr. ROBERTS raised a point of order, that the gentleman from St. Clair [Mr. MASON] asserts an untruth in stating that there is no organized county in the upper peninsula.

The PRESIDENT decided Mr. MASON in order.

Mr. MASON resuming, asked if it were the intention of gentlemen to admit four representatives from the upper peninsula, from counties having only a paper organization?

Mr. M. read an amendment which he said he considered proper and just to the new counties, and by which the Convention would know how far they were extending representation. (This amendment of Mr. M. was not obtained by the Rep.)

Mr. ROBERTS remarked that there was abundant evidence on record in the office of the Secretary of State, as any member could see if they took the trouble to examine, contradicting the gentleman in direct terms. There was evidence on record showing that four other counties were organized. A law was passed in 1848, by which these counties were organized, and judicial districts established, judges appointed, and all the county officers elected; and had since been re-elected, last November, for a term of two years. He made this explanation to show that the gentleman [Mr. MASON] was entirely mistaken.

Mr. SUTHERLAND said, when he introduced his motion, it was not his object to get up a discussion. From the vote taken the other day, great liberality had been shown to the new counties, and he supposed there would be no objection to his motion, with a view of putting the matter beyond doubt. He withdrew the motion.

Mr. LOVELL moved to amend section three by adding thereto, "and that each county having said ratio, and a fraction over, equal to a moiety of said ratio, shall be entitled to two Representatives; and so on above that number, giving one additional member for each additional ratio."

Mr. L. said, as the section then stood, the Legislature could give the counties having the ratio and a moiety over, an ad-

ditional member or not, as they thought proper. His amendment enjoined it on the Legislature to give it to them, and he considered it but proper to the new counties. It also applied to the old counties. He was happy to say it embodied the practice of the Legislature for the last fifteen years. It was not his own language, but was taken from the constitution of Missouri.

The amendment was adopted.

Mr. MASON offered the following amendment to section 3: "The counties of Newaygo, Tuscola and Midland shall be entitled each to one Representative."

Mr. M. said he supposed when this provision was passed, it was thought, perhaps, that this article would give these counties each a Representative. He understood, however, that they had not perfected their county government, and hence would not be entitled to a Representative under the law as it at present stood. He hoped, then, that the amendment would be adopted, so that each of those counties might be represented.

Mr. J. D. PIERCE moved that the Convention adjourn, but at the suggestion of Mr. McCLELLAND, withdrew the motion.

Mr. COOK demanded the previous question, but gave way to

The PRESIDENT, who stated the question to be upon the motion of the gentleman from St. Clair, [Mr. MASON.]

Mr. WILLIAMS then took the floor and was proceeding with some remarks, when he was interrupted by

Mr. COOK, who observed that he had called for the previous question, but gave way to the President, in order that the question might be stated.

The PRESIDENT remarked that after the statement of the question, the gentleman from St. Joseph [Mr. WILLIAMS] first caught the eye of the Chair.

Mr. WILLIAMS said that the spirit now manifested shewed him that he ought to say that which he was going to say. When speaking on this matter, he had expressed the most extreme liberality, and was the last man on whom the gag should be put. He would say that the spirit here manifested reminded him of the course which he used to see adopted towards children—"shut your eyes, open your mouth, and swallow the dose." There was great ambiguity in the language of

the section in relation to representation of this upper peninsula country, and in this intelligent body very different opinions were held in regard to it.

The act of 1848, relative to the organization of the counties of Marquette, Schoolcraft, Houghton and Ontonagon, was so recorded that some members of this Convention declared they would be entitled to four members under the article as it stands. Others put the construction that they were one county and would have one Representative. It appeared to him their duty to render clear, explicit and definite what they did intend. Was this Convention willing to stultify themselves, so that when they went home and might be asked how many Representatives were given to a certain locality, they could not explain what the language of this section meant? They ought to use explicit language, in order that the treasury might not be robbed and our people deprived of their relative and just rights. He did not desire them to leave this matter in ambiguity. He would propose therefore to insert the following:

"The counties of Sanilac and Huron shall be entitled to one Representative; the county of Tuscola shall be entitled to one Representative; the counties of Saginaw, Midland, and territory thereto attached, shall be entitled to one Representative; the counties of Montcalm, Gratiot, and the territory thereto attached, shall be entitled to one Representative; the counties of Newaygo, Oceana, and the territory thereto attached, shall be entitled to one Representative; and the counties of Houghton, Marquette, Schoolcraft and Ontonagon shall be entitled to one Representative."

He had embraced the four counties for one Representative, because nothing had been shown to prove they were entitled to any. Look at the act of 1848, organizing them, and in that act only three places were designated as suitable places for holding the polls—Eagle River, Copper Harbor and L'Ance; and a gentleman had stated on this floor that from all the evidence existing in the Secretary of State's office, there were but 237 votes given in all those counties for Delegates to this Convention—about equal to two-thirds of the number of voters in the town in which he resided.

One Representative, therefore, he deemed liberal.

To this question he had given much consideration, and the upper country members should not attribute to him any unkindness; for on one occasion he had spent almost weeks as one of a sub-committee of the Chicago Convention of 1847, in obtaining information to be laid before Congress, to induce liberal appropriations to aid in the development of the resources of the upper peninsula, and obtain that ample protection from the general government which it deserved; for he could well appreciate the vast and future importance of all its interests and its wealth, whether in mines of copper and iron, or the lumber trade, or its boundless fisheries. Therefore, gentlemen would give him credit for not regarding unkindly the interests of the upper peninsula, which would ultimately be immense.

A member—What do you do with the county of Delta?

Mr. WILLIAMS replied that that county could be easily comprehended in his proposition, for it might embrace Schoolcraft and Ontonagon, and the territory thereto attached. As he had said before, he had given to this question much consideration, and he could not find that in the whole of those counties there were ten thousand people. He would say that there was no evidence which could be obtained to show that in all those counties named in his amendment in both peninsulas, and in Chippewa and Mackinac besides, there were as many votes cast as there were in the county of Eaton at the last election; yet the most favorable construction of the section, as it stands, to the upper counties, would result in this: that about ten thousand people would get eight Representatives. Now, if the minimum was adopted, as the whole number of the House of Representatives, here would be one forty-fifth of the people represented by one-eighth of the House. This was a concession too large, and uncalled for on any consideration of justice. He would offer, then, what he had read, as an amendment to the amendment.

A member—what does the gentleman mean by "sub-committee?"

Mr. WILLIAMS—I mean a committee of the Chicago convention.

Mr. ROBERTS—(inaudibly heard)—thanked the gentleman from St. Joseph, [Mr. WILLIAMS,] for the kindness he had manifested towards the upper country. He would venture to say that those upper counties had never been the cause of one sixpence of expense to the State, unless we took into consideration the pay of a member in the Legislature last winter. He alluded to the Representative from Chippewa. They had paid into the treasury hundreds of dollars on the one per cent tax; yet there had not been an expense on the part of the State, in regard to the new counties, for a solitary object; not even to the laying out of a bridle path. The county of Houghton (observed Mr. R.) contained 1,000 miners, over 21 years of age, amongst its population, and not two hundred women. But he would not speak of the mines of wealth abounding in the copper or iron districts of that region; or of the fisheries, being probably superior to those of New Foundland. However, he would ask the gentleman to omit the counties of Schoolcraft and Houghton in his motion. Let the gentleman wait for the report of the committee in relation to this upper country, and then he could decide whether we asked for any thing which was improper or not.

On motion, the Convention adjourned.

Afternoon Session.

The Convention was called to order by the PRESIDENT.

The consideration of the article entitled "Legislative Department," was resumed.

The question being upon the substitute proposed by the gentleman from St. Joseph [Mr. WILLIAMS] for the amendment presented by the gentleman from St. Clair, [Mr. MASON,] the former was modified so as to read as follows, and was accepted by Mr. MASON:

"And provided that the county of Huron shall be attached to Sanilac, and together they shall be entitled to one Representative; the county of Tuscola shall be entitled to one Representative; the county of Gratiot, Midland and Saranac shall be entitled to one Representative; the county of Montcalm, and the counties thereto attached, shall be entitled to one Representa-

tative; the counties of Newaygo, Oceana, and the counties thereto attached, shall be entitled to one Representative; the counties of Houghton, Schoolcraft, Marquette, and Ontonagon, shall be entitled to one Representative; and the county of Delta shall be attached to Mackinac, and together they shall be entitled to one Representative."

Mr. McCLELLAND—Is it in order to move to strike out the entire section and propose a substitute?

The PRESIDENT—It would be in order after this amendment has been disposed of.

[A rather lengthy conversational discussion then took place, as to whether at this stage a substitute was in order, as proposed by the gentleman from Monroe, [Mr. McCLELLAND;] and the President deciding it not in order, Mr. McC. appealed from the decision of the chair; but after some remarks by members, withdrew the appeal.

Mr. ROBERTS moved to amend the substitute of the gentleman from St. Joseph, [Mr. WILLIAMS,] by striking out that part of it which relates to the counties of "Marquette, Schoolcraft, Houghton, Ontonagon, Delta and Mackinac."

The amendment was agreed to.

The question then recurred upon the amendment as amended, and was lost.

Mr. McCLELLAND offered the following as a substitute for the section (3d):

"The Legislature shall provide by law for an enumeration of the inhabitants of this State in the year eighteen hundred and fifty-five, and at the end of every ten years thereafter; and at the first session after each enumeration so made, and also after each enumeration made by the authority of the United States, the Legislature shall apportion anew the Representatives and Senators among the several counties and districts, according to the number of white inhabitants; which apportionment shall remain unaltered until the return of another enumeration. Every organized county, which, with the territory that may be attached thereto for representative purposes, shall contain 2,000 inhabitants, shall be entitled to one Representative; and it shall be competent for the Legislature to authorize an enumeration of the inhabitants of such county or territory, in such

manner and at such time as they may deem fit."

Mr. McLEOD proposed to amend the amendment by inserting after the words "white inhabitants," the following: "and civilized persons of Indian descent, not members of any tribe." There was a class of persons (said Mr. McL.) who had given rise to a good deal of discussion, as to their relative rights, at almost every meeting of our boards of inspectors. He had proposed to have made this amendment when the article on the Elective Franchise came up; but he now found it necessary to present it here. The persons to whom this amendment had reference were civilized people—white to all intents and purposes, except they had descent from Indian parents. In the northern part of the State there had been much of intermarriage between the French and the Indian races; and consequently there sprung up amongst us a mixed race, in regard to which, they had a great deal of difficulty at election times. One board of inspectors would decide that these persons were not white; another, for political purposes, maintained that they were, and admitted them to vote. There were many of this class at present occupying situations of trust and honor. Some of them were justices of the peace, and judges, &c. He would remark that in Wisconsin they had adopted the plan which he proposed in the amendment he had presented, in relation to persons of Indian descent. He was certain, then, that it was not the intention of this Convention to disfranchise that class in our community to which he had alluded.

The amendment was adopted.

Mr. SUTHERLAND proposed further to amend, by adding the following: "Provided, that Tuscola shall be entitled to one Representative; Midland, Gratiot and Saranac one Representative; Newaygo and Oceana one Representative; Sanilac one Representative."

Mr. S. said, this amendment ought to be adopted, inasmuch as the citizens of the counties therein mentioned would be deprived of their Representatives unless it be carried. And he hoped the Convention would indulge him with the yeas and nays on this amendment. He trusted that all actuated by a liberality of feeling, would

record their votes in its favor. But if it be lost, he would not consider that all was lost. However, he would consider it as an expression of opinion on the part of this Convention, that those counties were not worthy of a Representative; though from the development which had been made of the resources of that section of the country, and the increase which had taken place in the number of its inhabitants, it was evident they were justly entitled to representation.

There was another county which had not been noticed by any gentleman on this floor. It was the county of Arrenac on Saginaw bay, joining Midland on the north. It now contained, undoubtedly, 500 inhabitants, and the most valuable fisheries in the State. There were over \$50,000 worth of fish taken off that coast every year. If there was a feeling in favor of extending this right of representation to the northern counties, the Convention ought certainly to extend it to that county.

At the suggestion of Mr. LOVELL, the county of Montcalm was added to Mr. SUTHERLAND's amendment.

The question on the adoption of the amendment then being put, and the yeas and nays having been ordered, the result was as follows:

YEAS—Messrs. W. Adams, Alvord, Arzeno, Bagg, Barnard, H. Bartow, Burns, Bush, Chandler, Chapel, Church, J. Clark, Crary, Crouse, Danforth, Dimond, Eastman, Edmunds, Gale, Gardiner, Hanscom, Hart, Hixon, Lovell, Mason, McLeod, Mowry, Orr, J. D. Pierce, Rix Robinson, Skinner, Soule, Sturgis, Sutherland, Town, Walker, Warden, White, Whipple, President—40.

NAYS—Messrs. Anderson, Axford, Backus, Beardsley, Beeson, Britain, Alvarado Brown, Ammon Brown, Asahel Brown, Butterfield, Carr, Choate, S. Clark, Comstock, Conner, Cook, Cornell, Daniels, Desnoyers, Eaton, Fralick, Gibson, Green, Harvey, Hascall, Hathaway, Kinne, Marvin, McClelland, Moore, Mosher, Newberry, O'Brien, N. Pierce, Redfield, Robertson, E. S. Robinson, Story, Sullivan, Van Valkenburgh, Webster, Wells, Whittemore, Williams, Willard, Witherell, Woodman—47.

Mr. CHAPEL moved to strike out

"2,000," and insert in lieu thereof "1,500," which was not agreed to.

Mr. WHITE proposed the following as an addition to the substitute: "Provided that each county whose organization on the first day of January, A. D. 1851, shall have been perfected by election of county officers, shall be entitled to at least one Representative."

Mr. W. hoped that the Convention would not shut out from representation in the Legislature any county which had organized, or taken steps towards organization, under the act passed last winter. He believed it to be right that those holding property in these counties should have this right extended to them. In his opinion, the older counties ought not to object to the extension of representation to the new counties. If the Legislature had seen fit to establish the political organization of any territory, then taking property and population as the basis of representation, he conceived that such organization ought to be represented in the popular branch of the Legislature. He hoped, then, that the Convention would extend that right liberally to our new counties.

Mr. BACKUS did not perceive with what propriety gentlemen had argued in favor of giving Representatives to those new counties, while they admitted the entire disparity, both as to persons and property, between those counties and the older ones. He would say, without hesitation or the fear of contradiction, it was unjust, because it was unequal. Equality was justice. He was gratified to see the proposition of the gentleman from Monroe, [Mr. McCLELLAND,] and concurred with him heartily in extending the utmost liberality. In truth, he was surprised to see gentlemen asking for more. If the basis of representation in the Legislature was to be fixed at 6,000 or 7,000, he would ask what more could gentlemen demand? These new counties, by the substitute about to be voted upon, were to have one to four in the representation of the State. Could anything more be asked upon a principle of the most enlarged liberality? Gentlemen talked about property and persons; but he would venture to say that by no mathematical rule could we come to a conclusion more consistent with justice than the substitute now under considera-

tion. He, for one, could not see any valid reason why 500 people, or any number less than the quota, going into the wilderness to reside, should be entitled to a Representative, while those living in other parts of the State were required to have 7,000 to entitle them to a representation in the Legislature. However, by some magical process, 500 persons in a county, when north of a certain line, had as much to do with guarding the interests of the State as 7,000 living in a southern county! If gentleman speak of property as the basis of representation, why, then, place the basis upon property.

The reason why he liked the proposition of the gentleman from Monroe, [Mr. McCLELLAND,] was simply because it was definite. The people would know that 2,000 persons north of Saginaw bay, in every relation concerning public matters, would count the same as 7,000 here. Could any more liberal concession be made? It was really pushing the thing too far. It was argued with some earnestness that unless some provision of this kind were adopted, the people in those new counties would be excluded from representation until 1859, although their population came up to the ratio. It did involve a speculative hardship; but to those counties only which had existence but upon the face of the map. No matter how small their population might be now, and for years, they were to be admitted to the same amount of representation as those living in the densely populated counties of the State. It was entirely too much.

Mr. LOVELL said no doubt the gentleman who last spoke could see through the whole business as clear as mud. (Laughter.) The gentleman said "equality was justice." It was—no one denied the proposition—he did not, so far as it was applicable to this case. The reasoning of the gentleman amounted to this: "if 6,000 were the ratio of representation, it was just that the new counties should have the same population in order to be entitled to a Representative." Well, if it were "justice," let the gentleman bring up a proposition of that kind, and see if this Convention will adopt it. He said "he was in favor of the proposition of the gentleman from Monroe, because it was definite." It was especially definite! Well, he [Mr.

L.] had not a very weighty intellect or much of imagination; but he understood the gentleman's proposition, and he, for one, disapproved of it. But was it any more definite than the proposition he had introduced?

The gentleman spoke of a ratio of eight thousand. In his opinion, it was not going to be any such ratio; it was not, he thought, going to be over six thousand. The gentleman also alluded to "the sensitiveness of members." So far as he was acquainted with human nature, he would say for himself, that when he felt strong upon any subject, he did not feel sensitive at all. The north was in the power of the members of this Convention. He acknowledged that property and population were the true basis of representation. But there was no general rule that had not an exception, except, perhaps, a few in mathematics. Then he would submit if this were not a case in which the Convention should depart from the principle of property and population as the basis of representation? The Convention of 1835 departed from it; and nearly every State in the Union, under like circumstances, had departed from this rule.

If the amendment of the gentleman from Monroe [Mr. McCLELLAND] be adopted, what would be the situation of things? This bill would have to be fought over again; we would have to fight for Chippewa and Mackinac, or leave them without a Representative. Probably the county of Sanilac would be entitled to what the gentleman proposed; but Chippewa and Mackinac would be cut out; Montcalm with her 300 voters at the present day, would have no Representative; as also Newaygo. He thought Tuscola and Midland were organized; he knew that Midland was. However, gentlemen did not like his proposition. He supposed they did not like it on account of the "ticklish" position in which Midland and Tuscola were situated. He hoped the substitute of the gentleman from Monroe would not be sustained; for, as he had previously remarked, not only would Mackinac and Chippewa be deprived of a Representative, but so also would Tuscola and Montcalm. The present census, now being taken, would show that Sanilac had 2,000 inhabitants; Montcalm, he was told, had 200 voters, but had not a population

of 2,000; so she would not have a Representative until the next census was taken. But gentlemen would say it was easy to take a census; but who was to bear the expense of taking a census—the State? No—the poor county; and then it would have a Representative. This amendment was more uncertain, and left the whole matter more unsettled, at least in his opinion, than the amendment which had been already adopted.

Mr. BRITAIN moved to amend the proposition of the gentleman from Lapeer by adding the following: “And such territory as may be attached thereto for representative purposes,” to come in after “officers.”

The amendment was accepted.

Mr. BACKUS observed that the comments of the gentleman from Ionia [Mr. LOVELL] had failed to convert him to the notion that there was in the proposition of the gentleman from Monroe more of ambiguity than was contained in his, [Mr. LOVELL'S.] This measure may be a favorite one with him, but it was better now than as it stood before. The reason he used the word “definite,” was this: the amendment defined the number of persons—taking population as the basis of representation—to be entitled to be heard in our halls of legislation. Taking the proposition as amended by the gentleman from Berrien, [Mr. BRITAIN,] it struck him as even still more distinct, because it explicitly said that this portion of our population, no matter what it might be, was to experience the same control over the affairs of the State, as six-sevenths of the people in another part of the country. He was of opinion that gentlemen were mistaken in regard to the organization of those counties. He was not disposed to participate in the formation of organic law upon guess work and supposition; for it might turn out that those districts of country of which gentlemen spoke had not fifty people within their limits. Did gentlemen then propose to place such districts within our Senate and Legislature, upon a basis of fifty in population?

Mr. LOVELL (interposing) remarked that he received his information from the gentleman from Monroe, [Mr. McCLELLAND.] He supposed the information was correct.

Mr. BACKUS resumed, the light which shone upon gentlemen in relation to the population of those counties might yet prove incorrect. He was unwilling, therefore, to act upon that basis. In all candor, he would say that we should not run on madly, and admit counties which had but a name, without reference to their resources, their population, or their taxation. For, the basis of representation must be upon something: all conceded that. It must be either population or taxation, or both combined. Take them both together, and he asked could gentlemen obtain a more liberal rule than that contained in the proposal here made? But it was sought to carry it further. The gentleman from Lapeer [Mr. WHITE] asked us to admit everything that had been organized, without reference to any standard whatever, before the year 1851. For one, he was willing that next year, or the year after, or in six months hence, if a county should present this amount of living population on its surface, (2000) that it should come in and participate in the legislation of the State. If they had not, he would ask upon what possible basis could it be asked at the hands of this Convention, to extend to those counties a participation in controlling our State affairs? Did they ask it upon the basis of property? If so, then extend representation upon that basis to the entire State at large. Did they say population? If it be population, then abide by that.

The county of Mackinac had been adverted to, and it was said that she would be stripped of her Representative. He did not think so. He thought the gentleman from that county would bear him out, when he said that that county, with the country connected with it, contained 3000 inhabitants. The population of Chippewa, he supposed was about 2000. Therefore, the statement did not apply to those counties, but it did to the counties as to which we had no information in relation to their population. He was unwilling, as he said before, to admit them unless it were on some definite basis. If gentlemen said that 2000 was not a liberal basis, he desired that they would propose some other, in order that the people might know what they considered equal to a quota of the residue of the people in this State. He thought then the proposition of the gentle-

man from Monroe [Mr. McCLELLAND] to be very definite; as also the one of the gentleman from Lapeer, who asked to have every county admitted after the year 1851.

By consent, Mr. McCLELLAND was allowed to modify his proposition by inserting "1,500," in lieu of "2,000."

After some further slight discussion, the gentleman from Lapeer [Mr. WHITE] withdrew his amendment.

Mr. STOREY moved to strike out "1,500" and insert "2,000;" which was not agreed to.

The yeas and nays being demanded on the adoption of the substitute, the result was as follows:

YEAS—Messrs. W. Adams, Alvord, Arzeno, Barnard, H. Bartow, Britain, Alvarado Brown, Asahel Brown, Burns, Bush, Butterfield, Chapel, Choate, Church, J. Clark, Comstock, Conner, Cook, Cornell, Crary, Crouse, Danforth, Dimond, Eastman, Edmunds, Gale, Gardiner, Hanscom, Hart, Kingsley, Kinne, Lovell, Marvin, Mason, McClelland, McLeod, Mowry, Orr, J. D. Pierce, Robertson, Rix, Robinson, Skinner, Soule, Storey, Sturgis, Sutherland, Town, Walker, Warden, Webster, White, Whipple, Whittemore, Williams, Willard, Woodman—56.

NAYS—Messrs. Anderson, Axford, Backus, Bagg, Beardsley, Beeson, Ammon Brown, Carr, Chandler, S. Clark, Daniels, Desnoyers, Eaton, Fralick, Gibson, Green, Harvey, Hascall, Hathaway, Hixon, Moore, Mosher, Newberry, O'Brien, N. Pierce, Redfield, E. S. Robinson, M. Robinson, Sullivan, Tiffany, Van Valkenburgh, Wells, Witherell—33.

So the substitute proposed by Mr. McCLELLAND for section three, was agreed to.

On motion of Mr. DANFORTH, the Convention adjourned.

WEDNESDAY, (32d day,) July 17.

The Convention met pursuant to adjournment, and was called to order by the PRESIDENT.

Prayer by the Rev. Mr. ATTERBURY.

Mr. BRITAIN moved to amend the journal of yesterday by inserting after the substitute proposed by Mr. McCLELLAND to section 3 of the article entitled Legislative Department," the following, viz:

"Mr. White proposed the following as an addition to the substitute, which, after some debate, was withdrawn:

"Provided that each county whose organization on the first day of January, A. D. 1841, shall have been perfected by election of county officers, shall be entitled to at least one Representative."

Mr. BRITAIN—I will give, in a few words, Mr. Chairman, my reasons for wishing to have the journal corrected so that it will be a journal of the proceedings, rather than what it is; as the Convention might be in debate upon some question almost the entire morning, and by our journals not a trace of it be found. In the first place it will cost nothing more. We pay for the blank pages of our journals the same as the printed portion; therefore the expense of printing will not be increased. You employ reporters to report the proceedings of the Convention; your reports and the journals will not correspond. Should this be so? When you read the reports, and open the journals to see if they agree, they do not, because the journals do not contain the proceedings. Half a day may be spent in debate upon a proposition submitted, and afterwards withdrawn, and your reporters, instead of going to the journals for the proposition, have to go and request the person who made it, to write it out from recollection, or endeavor to find it around the Clerk's desk; then, if written out again, I would ask, does this Convention know that proposition, so written out, to be the identical proposition discussed?

The Reporters have told me that persons have said: "it is pretty near the thing, as near as we can get it." Besides, it works great injustice. You give to one member credit for what he is not entitled; to another, who is so, you give no credit. This was the case with Mr. WHITE yesterday; the same with Mr. McCLELLAND, of Monroe, who accepted an amendment against his wish, because he saw it was the will of the Convention, and might prevent the adoption of another proposition which he considered more objectionable than the one accepted by him; all of which could be easily understood if the journals gave the facts as they occurred. But as they do not, how can the gentleman from Monroe excuse himself for modifying his own

proposition by admitting into it what he considered as objectionable, without any apparent necessity for it?

Mr. ARZENO—The gentleman from Berrien need not trouble himself about the gentleman from Monroe; he needs no excuse to his constituents.

Mr. BRITAIN—Mr. President: It always gives me pain to be misapprehended, and to have my motives impeached and my statements perverted. Sir, I have not spoken in terms of censure, nor even of disapprobation of the course pursued by the gentleman from Monroe. I have merely said that he modified his own proposition by admitting into it what he considered objectionable himself, without any necessity for it appearing on the journals. Sir, it stands upon the journals as "the man at an auction who raised his own bid," to the gratification of the spectators; when, if the journals gave the truth, he would occupy no such position. I hope this explanation satisfactory to the gentleman from Monroe.

I also made several amendments yesterday, which were accepted by different persons, and for which I received no credit upon the journals. Now, sir, I do not wish to be considered the father of other peoples' measures, nor do I wish them to be considered the father of mine; and we should at once put an end to this rule, which produces so much injustice to members, and was only adopted in the first place by the Secretaries, for their own convenience.

Now, sir, why should these wrongs be permitted? The expense of printing, as already shown, is the same. The clerks are ready to keep the journals properly, if you will permit them. We have the practice of both houses of Congress, acting like ourselves under Jefferson's Manual, as the parliamentary law, to warrant the change. The people, too, suppose that we are doing but little, because a considerable portion of our business does not appear upon our journals. It produces great discrepancy between the reports of the debates and the journals; and the practice of the Legislatures, which we are following, was in violation of the constitution, which requires each house to keep a journal of its proceedings.

Mr. J. D. PIERCE would beg the atten-

tion of the House while he read Jefferson's Manual, sec. 49. Our journals are precisely in accordance with that rule. Here are forty propositions presented in the course of debate. They may have been discussed, but no action has been taken upon them; and until action has been taken they have not become the property of the Convention. If my friend sends up a newspaper, then withdraws it, should that go on the journal? The thing is too absurd to discuss.

Mr. COOK—That has no relation. If that view were taken, it would cut off all amendments that were voted down, and everything except what was adopted by the House.

Mr. J. D. PIERCE—That is provided for; where there is a vote they are to be entered.

Mr. HANSCOM—The practice in Congress is to enter upon the journals every proposition sent up by a member that is in order.

I concur with the gentleman from Berrien, [Mr. Britain,] in his views, and see no reason why we should not adopt a similar rule. A man might send up a newspaper, but he would act upon his own responsibility, if he chose to be so absurd. The object of the journal is, to give a true reference as to notices, resolutions, &c. Our journals do not show this; yet, in the journals of Congress, you can see how A., B. or C. moved this, or withdrew that.

I think a journal of proceedings should show, not only what is adopted, but that amendments or notices, whether adopted or not, should go on the journals. You can place a man in a most ridiculous attitude by not adopting the rule. For instance, the gentleman from Monroe moved a substitute for a section; the gentleman from Lapeer came in with a proposition that the gentleman from Monroe thought dangerous and destructive; he, seeing from the tone of the Convention, that it was likely to pass, modified his own; and, I would ask, where would his constituents find excuse for a change, except the journals show the reason?

If the proposition of the gentleman from Lapeer had been entered upon the journal, then the modification of the proposition of the gentleman from Monroe would have been perfectly understood. Our practice

has been different from Congress. It has been the invariable practice in the State of Michigan, to enter only those propositions upon the journal upon which action has been taken. It is best to let the journal contain all, and let each member send up his motions on his own responsibility; as, by the present method, the debates and the journals do not agree.

Mr. EATON saw a good deal of reason in the argument. A member might send up a motion, and make a long speech upon it; our reporters take down what he says; but if the motion is not in the journal, we may have a sermon without a text. He always wanted a text when he had a sermon.

Mr. GARDINER—That is the point. We are publishing our proceedings and debates. We publish lengthy discussions; and referring to our journal, we find that no such propositions were entered there. I think that they should be entered in the journal so that the reports and the journal would agree. I therefore hope that the rule may be adopted.

Mr. J. D. PIERCE—The journals of the Convention give an account of what is done by the Convention—the reports of what was said. I see no difficulty in continuing the present rule. If we change it we shall have the same thing in two places; as the reports tell what was said, whether acted upon or not. If we adopt the system proposed, we must change our rules.

Mr. CORNELL had seen great irregularity in the journals of the previous days' proceedings—he had noticed it again and again. Some proceedings, that he thought should have gone on the journal, had no record. Another evil he had noticed was this: that members, in place of slightly amending the section, which was all they wanted, would offer a substitute containing all the old section except such slight amendment, which led to a waste of time. He [Mr. C.] did not know that it was for the sole purpose of members getting their names on the journal, but it was the fact that this was the method pursued when nothing but a small amendment was wanted.

Mr. BRITAIN—Congress adopts Jefferson's Manual the same as here, and yet the construction is different.

Mr. CRARY—I should like to see the journal of Congress presented, that would bear out the facts that have been assumed. It matters but little what rules we adopt if we behave ourselves. If we do not, it is not much matter if we adopt a good rule. The rule is a good one, as laid down in the Manual. We may adopt a different rule, and it may be a good rule generally.

Jefferson's Manual made me appear in a different light from what my views were, for I accepted an amendment which did not meet my own views, for the sake of expediting business. It was put on the journal as it should be by the rule, for all amendments accepted by the original proposer become the property of the original mover. The rule of Jefferson's Manual is a good rule; but I do not say that it is a good rule for this Convention. Suppose a member wishes to bring this Convention into disrepute before the public—he makes amendments that are a disgrace to the whole body—how will you manage it? Rule them off the journal? The very ruling and voting upon them will retain them upon the journal; because you cannot vote it off; it is there, and must so remain. It may be the better course to adopt the proposition of the gentleman from Berrien; but if it is so adopted, ridiculous motions may be made and then withdrawn.

Mr. HANSCOM—Would not the fact that they must appear upon the journals prevent ridiculous amendments being made?

Mr. CRARY—Not if a member wished to bring the body into disrepute. The journals do not show all, nor will they under the new rule. They will not tell what A, B. or C. said; they were never intended to do so. If we change it, members heretofore making amendments, will have great injustice done to them. But if we adopt the proposed system, we should adopt a new rule, and not stultify ourselves; for this is the rule under Jefferson's Manual. If we want a new rule let us make one.

Mr. BRITAIN—Mr. President, gentlemen, in their anxiety to defeat my proposition, create evils which have no existence except in their imaginations. One gentleman from Calhoun says if my amendment of the rule be made, I might send a newspaper to the chair and have it entered upon the journals. Another gentleman from

Calhoun says the rule may be a good rule, but the Convention might be disgraced by the ridiculous proposition of some ill disposed member. Another gentleman proposes to send up the revised statutes, if my motion prevail, and have them entered upon the journal. Now, Mr. President, suppose the newspaper and the ridiculous proposition of the gentleman from Calhoun, and the revised statutes of my friend over the way, were all sent to the chair under the present rule, and the persons sending them refuse to withdraw them, how could you avoid entering them upon the journal? I hope gentlemen will not be alarmed at the actual existence of the evil which they had supposed could only originate from the adoption of my rule, for there is a very easy way to avoid entering improper propositions upon the journal. A motion that the gentleman's proposition be not entered upon the journal, if sustained by the Convention, would, under either rule, relieve the Convention from the necessity of an improper entry upon its journal, and as effectually under one rule as the other. Now, sir, I am confident that no evil can be produced under the new rule which cannot be produced under the present rule; and as the new rule would relieve the Convention from many evils actually existing under the present rule, the new rule should be adopted.

Mr. CRARY—Such is the parliamentary rule. If we want a new rule, let us have it; not call that law that is not law.

Mr. WOODMAN thought the matter had been discussed enough. He therefore moved the previous question.

Mr. J. D. PIERCE rose to a point of order. Could we change the rule without a two-thirds vote?

The CHAIR—A two-thirds vote is required to change the rule.

Mr. EATON did not think that the present question conflicted with the rule.

The CHAIR decided that the change in the journals contemplated might be decided by a majority vote.

Mr. WOODMAN withdrew his motion for the previous question, to give way to

Mr. CORNELL—I noticed that the peculiarities of the present rule worked evil. The same propositions appear with some little alterations, and at times I have not

been able to understand the question; and I have noticed that others have been similarly embarrassed.

Mr. COOK—The practice works unequally. If a member introduces a proposition, it is debated; and if, during the time of the debate, the Convention adjourn, it is put upon the journal, although the next day it may be withdrawn, and no action upon it be taken.

Mr. CRARY—It is not put upon the journal.

The CHAIR would explain, that if during the progress of the debate, if the Convention adjourn, it stands as unfinished business, and if withdrawn the next day, it still must necessarily remain upon the journal.

Mr. J. D. PIERCE—We have adopted Jefferson's Manual. We cannot change without a two-thirds vote.

Mr. BRITAIN—As we may want a new rule upon some future day, I shall call for the yeas and nays, in order to test the sense of the Convention upon this subject.

And the journal was ordered corrected, by the following vote:

YEAS—Messrs. W. Adams, Alvord, Anderson, Backus, Bagg, Barnard, H. Bartow, Beeson, Britain, Alvarado Brown, Asahel Brown, Burns, Bush, Carr, Chandler, S. Clark, Comstock, Conner, Cook, Cornell, Crouse, Danforth, Desnoyers, Eaton, Edmunds, Fralick, Gale, Gardiner, Gibson, Graham, Green, Hanscom, Hart, Harvey, Hascall, Hathaway, Hixon, Kingsley, Kinne, Marvin, Moore, Morrison, Mosher, Mowry, Newberry, O'Brien, N. Pierce, Redfield, Robertson, Skinner, Storey, Sullivan, Town, Van Valkenburg, Wait, Walker, Warden, Wells, White, Whipple, Whittemore, Willard, Woodman—63.

NAYS—Messrs. Arzeno, Axford, Beardsley, Butterfield, Choate, Church, Crary, Daniels, Dimond, Mason, Orr, J. D. Pierce, Roberts, E. S. Robinson, Rix Robinson, Soule, Sturgis, Sutherland, Tiffany, Williams, President—21.

On motion of Mr. J. D. PIERCE, the journal was ordered corrected by the insertion of all amendments and substitutes yesterday proposed and withdrawn.

On motion of Mr. BRITAIN, the journal was corrected as follows:

“Strike out from amendment of Mr. McLEOD to Mr. McCLELLAND's substitute for

section three, 'not members of any tribe,' and insert as follows:

"Mr. BRITAIN moved to amend the amendment by adding thereto 'not members of any tribe,' which was accepted by the mover."

On motion of Mr. BRITAIN, the journal was further corrected by inserting after the amendment proposed by Mr. WHITE to the substitute for section three, offered by Mr. McCLELLAND, the following, viz:

"Mr. BRITAIN moved to amend the amendment by inserting after 'officers,' 'and such territory as may be attached thereto for representative purposes,' which was accepted by the mover."

Mr. SUTHERLAND—Yesterday, on Mr. LOVELL's proposition, I made a motion to reconsider, for the purpose of introducing another clause. I claim, under the rule, to have the journal corrected. It stands as a motion to reconsider. I wish added the clause I wanted inserted.

Mr. WILLIAMS—If it is in order, I move the indefinite postponement of the whole subject.

Mr. BRITAIN—The gentleman from Saginaw proposes to put in the journal something which he did not offer, but only proposed to offer.

Mr. SUTHERLAND—I sent my statements in writing to the Secretary's desk—the motion, and what I wished to appear.

Mr. WALKER—All that the gentleman from Saginaw had a right to do, was to make a motion to reconsider; when reconsidered, he might have properly made his motion. But to enter upon the journal that he was out of order, would be a position that neither he or any other man would covet.

Mr. SUTHERLAND withdrew his motion.

Mr. VAN VALKENBURGH moved that the journal of yesterday be corrected, in which he is made to withdraw his motion to amend section 38 of Legislative Department.

A division of the question being had, and there being a tie vote, the President voted in the negative, and the correction was not made.

PETITIONS.

By Mr. MOORE: two several petitions of sundry inhabitants of St. Joseph county, praying that the legalization of the traf-

fic in ardent spirits may be prohibited; also,

By Mr. WELLS: of A. U. Mack and 73 others, and of Asa B. Brown and 13 others, citizens of Kalamazoo county, praying a like prohibition.

Referred to the committee upon the subject.

By the PRESIDENT: of Mrs. L. J. Cardnell and 135 others, Daughters of Temperance in the village of Almont and its vicinity, praying that a clause may be inserted in the revised constitution prohibiting the manufacture, importation and sale of intoxicating liquors for other than medicinal and mechanical purposes; which, on motion of Mr. VAN VALKENBURGH, was referred to the select committee upon the subject.

The PRESIDENT presented a resolution adopted by the common council of the city of Detroit, requesting the incorporation of a provision in the constitution, preventing banks, rail roads and other incorporations from being exempted from municipal and county taxes.

Referred to the committee on finance and taxation.

REPORTS.

Mr. TIFFANY, from a majority of the committee on exemptions and the rights of married women, submitted the following report, accompanied by an article entitled "Rights of Married Women:"

The undersigned, a majority of the committee on Exemptions and the Rights of Married Women, to whom were referred the various resolutions on those subjects, have had the same under consideration, and would respectfully report: That after mature deliberation of the various matters embraced in the several resolutions referred to them, they are of an opinion, and so recommend to the Convention, that on the subject of exemptions no provision is required, nor is it expedient that any should be incorporated in the constitution.

The whole subject, without any such provision, being within the competency of legislative action, except so far as the same is limited and restrained by the provisions of the constitution of the United States, any constitutional provision on this subject, unless in restraint, would manifestly be unnecessary and unwise, and clearly better left to legislative discretion, so to mould

the exercise of the power as to meet, without restraint, the changing circumstances of society, and enable them to grant such measure of relief as the exigencies of the time really seem to require.

In the opinion of the undersigned, on principle, except to a very limited extent, the whole system of exemptions is essentially wrong. It is followed by consequences, when adopted, to a greater or less extent, subversive of that personal economy and commercial integrity so essential to the prosperity of any people.

The changing exigencies of society really sometimes require, in this respect, legislative intervention. In most of the cases when exercised, it is injurious rather than beneficial, not only to the creditor, but also the debtor portion of community. The organic law cannot, therefore, with any safety, prescribe any fixed rule.

The undersigned therefore hope, and relying on the innate integrity of our people, have reason to believe, as the capacities and business energies of our State are developed and matured, the necessity and desire of any system of exemptions will and ought to decrease, and believe the time is not very remote when exemptions should not extend beyond the mere indispensable necessities of a household. It should be, and your committee hope it will be, the highest ambition of our citizens, to be just and absolutely punctual in all their engagements. Property is the legitimate source for the payment of debts, and should for that purpose be faithfully applied as between debtor and creditor. All exemptions, in the opinion of your committee, upon principle, operate most injuriously as a withdrawal of so much available capital from the active business of society, and can alone be justified to any extent by the most imperious necessity of family existence.

In relation to the rights of married women, the undersigned respectfully report the annexed article.

SENECA NEWBERRY,
HENRY FRALICK,
DANIEL S. LEE,
A. R. TIFFANY.

ARTICLE —.

Rights of Married Women.

1. Any real or personal estate which

may have been acquired by any female before her marriage, either by her own personal industry, or by inheritance, gift, grant or devise, or to which she may at any time after her marriage be entitled, by inheritance, gift, grant or devise, and the rents, issues and profits thereof, shall be and continue the real and personal estate of such female after marriage, to the same extent as before marriage, and may be sold, conveyed, mortgaged, devised, or otherwise disposed of by her, and suits maintained on account thereof in her own name, in the same manner and with the like effect as if she were unmarried.

2. Such property shall not be liable for the debts of the husband, nor be subject to his disposal without the consent of the wife in writing, first had and obtained, duly acknowledged before such officer as the Legislature shall prescribe, that such consent was not the result of coercion on the part of the husband, but was voluntarily given by her, and of her own free will.

3. All such property shall be liable to the debts contracted by the wife, and to levy and sale on execution upon any judgment for the debts of the wife.

4. The Legislature shall pass all laws necessary to carry into effect the foregoing provisions.

Mr. WITHERELL would inquire if this was a majority report?

The CHAIR—It is.

Mr. WITHERELL—I understood that the majority report was presented some time since. Are there two majority reports?

Mr. J. D. PIERCE—I did not state that the report I made was a majority report, but that a majority of the committee consented that I should make the report then.

Mr. TIFFANY—I understood that no report at all should have been presented until the day subsequent to that on which the first was presented. At that time we agreed to have both reports ready, and to present them at the same time; we did not expect the minority report so soon.

Mr. J. D. PIERCE—The first proposition was that I should wait until the next morning; but having received news of the sickness of one of my family, I expected to be called home; and I understood that

a majority urged that I should make the report that morning.

Mr. NEWBERRY—We wished him to wait until the next morning. He said he must go home. We told him the stage would wait. I believe it was understood by every member of the committee that he should wait; it certainly was by myself.

Mr. J. D. PIERCE—The gentleman on my left [Mr. H. BARTOW] understood it the same as myself.

Laid upon the table and ordered printed.

MOTIONS, RESOLUTIONS, &c.

Mr. VAN VALKENBURGH presented the following protest:

Whereas, it is made to appear, by the journals of yesterday, that I withdrew my amendment to section 39 in the article Legislative Department;

And whereas, it was my intention to withdraw only my demand for the yeas and nays, and not the original amendment offered by me;

I therefore protest against the position in which I am made to appear on the said journal.

J. VAN VALKENBURGH.

And the same was ordered entered upon the journal.

Mr. WOODMAN—I move to reconsider the vote whereby leave of absence was granted to Mr. P. R. ADAMS.

Out of the thirty-two days we have been here, he has been absent seventeen or eighteen. I understand that he is not detained by sickness, but is attending to his ordinary business, while he is receiving his per diem here. It is unjust—it is not democratic.

The motion was carried.

Mr. WOODMAN moved that the Sergeant-at-arms be instructed to take Mr. P. R. ADAMS into immediate custody.

Mr. WITHERELL would inquire if that was regular without a call of the House?

Mr. COMSTOCK stated that Mr. ADAMS was sick previous to adjournment. He may be sick now.

The motion was withdrawn.

Mr. ALVORD submitted the following resolution:

Resolved, That the committee on exemptions and the rights of married women be instructed to report to this Convention

some "rule" whereby the "thunder" of each member shall remain inviolate.

A motion being made to lay the resolution on the table,

Mr. ALVORD withdrew it.

The Convention having reached the order of unfinished business, resumed the consideration of the article entitled "Legislative Department."

Mr. COMSTOCK moved a reconsideration of the vote by which the Convention refused to concur in the amendment made by the committee of the whole, striking out section 39.

The PRESIDENT called Mr. HANSCOM to the chair.

Mr. MASON believed that the Convention did not fully understand the vote they had previously given. The friends of temperance are in favor of this provision; they prefer that the matter should be left to be controlled by public opinion, rather than sanctioned by the public authorities.

Mr. BUTTERFIELD—The gentleman may fully interpret the public opinion of his own county, but there is a considerable difference among the friends of temperance, and there is considerable difference of opinion in this Convention as to the best measures to be pursued. I should agree with the views of the gentleman from Lenawee, [Mr. COMSTOCK,] rather than those of the gentleman from St. Clair, [Mr. MASON.] I hope that it may stand open, that the friends of temperance may agree upon some definite action. They are not agreed now respecting the best course to be pursued; and I trust that the friends of the cause will pass the measure until the committee have a further opportunity of investigating the matter.

Mr. J. D. PIERCE believed that the general wish was that the Convention should incorporate in the constitution a provision prohibiting the Legislature from passing license laws.

Mr. BUTTERFIELD—I spoke to the Grand Chaplain of the Sons of Temperance, and he expressed most decided disapprobation of the clause, without some addition; and that is the feeling of the temperance men in our county. I also spoke to a person who stands high in the temperance ranks, and he expressed a similar view to the Grand Chaplain. I wish the temperance men to take decided ac-

tion, and such as the majority of the temperance men will approve. I differ with some of my friends on this subject. I believe that a bad law is better than no law at all. Then I would prefer that the clause, together with any subsequent clause reported by the select committee, might be submitted to the people together, than all going in the constitution. If they do not sustain the provision, we are thrown back upon the present law, or what the Legislature may permit. The difference is here: had we better retain the provision in the constitution prohibiting them entirely, or shall we permit it to pass into the hands of the Legislature to grant licenses or not, as they may think fit.

Mr. WILLIAMS said he disagreed entirely from the gentleman from Jackson [Mr. BUTTERFIELD] with regard to reference of this subject exclusively to a select committee. He deemed the whole Convention by far the most competent, and the question had been as amply discussed before them as was necessary. Again, he did not consider the general question of temperance as necessarily involved in the 39th section. It is a mere assertion of a principle in political economy. It is an emphatic assertion of the naked principle that our government shall not place one branch of business under different regulations from what it does another—shall not receive into its treasury a tax on a trade which it may consider ruinous or sinful—shall not compromise with mischief. He thought the 39th section should stand as it now does. He did not see why the select committee need be disturbed at all. This section was a mere negative proposition—a denial of the power in the Legislature to do with one trade what they never did with another. If the committee have affirmative propositions to make, let them be brought forward clearly and distinctly; and whatever positive action they propose, if any—whatever views they choose to embody in a separate provision, let them be laid before the Convention or the people. It is time this 39th section, he would urge again, was disposed of.

Mr. WALKER—I did not before offer any remarks on this subject, because I thought I would see what the friends of temperance asked for. In its present shape it is a hazardous proposition; and the fate

of the whole constitution may depend upon it. There are many other subjects that will produce local dissatisfaction, and when this section is understood, many would prefer to vote against it rather than have this provision in it. It is said that all agree to this proposition—temperance men as well as others—but we have evidence that the temperance men themselves do not agree on this subject; that license laws shall not be passed. One portion desires that the license laws shall be abolished, and no penalties enforced; and others that the license law shall remain, leaving the prohibition and the penalties in full force.

It is well known that this has been presented for the action of the people in many sections; and that in some the license law has been permitted, in others not. It is so in the city of Detroit by the action of a majority. In my section there is but little difference of opinion. Now add all these to those who are dissatisfied with the constitution on local grounds, and it may defeat its reception by the people; and for that reason I desire it to be submitted to the people in a separate article. Our district system, and abolition of the grand jury system, has many enemies, and if we embody this in the constitution it may defeat the whole.

Mr. BAGG—I rise to say a few words, and I agree with my friend from Macomb, that the constitution will not be received. Look at the district system, and say if there is not danger. There is a difference of opinion amongst temperance men in the county of Wayne, as there is in all the rest of the State. I know well their sentiments. I have a son, who is at the head of one of their divisions. I have been in association with them ever since I went home. A large majority of those in Detroit say, do away with the odious license law; then we will come in with moral suasion. Then the coast is clear; and if hereafter the people require a law of licenses, will not the Legislature meet before the licenses run out, so that they can provide for the necessity. If it were necessary, I could go into detail and show how to stop the use of ardent spirits, but this is not the place to do so. There are two sets of temperance men—one who would prevent the drinking of tea or coffee; the other who

think that ardent spirits are to a certain extent useful; and between them, we are undoing to day what we did yesterday. The chairman of the select committee has never called us together; and we thus have to wait, and nothing is perfected. I call upon the large majority of the temperance men—the St. Paul men—the men who take a little wine for the stomach's sake when they are ready to faint—I ask them to come up to the scratch, and do away with this blot that has been handed down by Great Britain. You must leave the coast clear, and let moral suasion do its work; for you might as well try to stem Niagara with a bark canoe, as endeavor to force this people. I trust that the friends will be firm, not retrace their steps, but put down this miserable principle, which is known to be wrong. Gentlemen say that it is wrong—has been so for centuries; yet if you will pay thirty dollars, you may inflict all the evils incidental to the system.

Mr. MOORE—I did hope that this matter was disposed of yesterday. Now, I think that we should not render ourselves ridiculous by changing our votes from day to day. There are two extremes, and if you take the middle line you are right. We have done so, and I hope that we shall come to a vote, and have no more discussion.

Mr. CHURCH—I believe that the traffic in ardent spirits should be under restrictions. We voted in our village “no license;” the result was, the commencement of all kinds of groceries, big and little, disreputable, and fashionable groceries. The friends of temperance proposed prosecuting, and they did commence proceedings against one that was considered the most injurious of the whole. What was the result? The entire liquor interests united their purses, for they considered that a blow struck at the least, would, if successful, be struck again at the rest. I was retained as counsel, paid a large fee, and we wore out the friends of temperance, and the prosecution was abandoned. The next year we voted “license,” made them pay a good round sum, and some few bought their licenses, and the traffic immediately assumed a different shape. It was sold under the laws of the village, and order and decency was made necessary in the establishment. I came to the conclu-

sion that liquor ever would be drunk, and that the traffic should always be under restrictions.

I believe that this is true as applied to all parts of the State; and I believe that if a clause is inserted in the constitution prohibiting the Legislature from passing license laws; or, in other words, if the traffic in liquor is to be free, without control, that we shall see that the constitution is a Pandora's box—that it will let loose a flood of iniquity that will make the people regret the acceptance of the constitution. I hope that it will be reconsidered, and that it will be left to the Legislature to do what the public good may require.

Mr. BRITAIN—I apprehend that the question is not placed in its proper light. The question is not whether it shall be ultimately adopted in the shape it now appears, but whether it shall be submitted to the people in the legislative article or not.

The gentleman from St. Joseph [Mr. MOORE] calls upon the Convention to maintain its consistency. I was sorry to hear that call upon the Convention. If the Convention has done wrong, should they persevere in the wrong? I trust not. Then why draw the attention of the Convention from the merits of the question by addressing their self-pride?

Is the gentleman afraid to trust the people? Is the Convention afraid to trust the people with it as a single question? Does the gentleman wish to compel the people either to vote for this proposition or reject the constitution? Or what is equally objectionable, does he wish to compel the people either to reject his proposition or adopt the constitution? I do not wish to do either, and temperance men, if they are friends of human rights, should be unwilling to do either.

Sir, the State of Wisconsin a few years since, submitted to its electors a constitution having liberal exemptions and stringent bank restrictions. The bankers were displeased with these restrictions, and resolved upon procuring the rejection of the constitution. They did not, however, dare to attack the bank restrictions, but confined their attack to the liberal exemptions, and accomplished their unholy purpose.

The State formed a second constitution with similar exemptions and restrictions, but submitted them in separate articles,

and both were adopted by handsome majorities. I wish to profit by the last example. Some of the best provisions in your constitution will have the most bitter opponents. I wish to confine these opponents to the true issues. If they can make your stringent bank provisions, or provisions securing retrenchment, unpopular, and procure the rejection of the constitution, it is their privilege to do so; but I would not enable them to unite with their own strength against the constitution, all the liquor makers, liquor sellers, and liquor drinkers in the State, by telling them that if this constitution was adopted, there could be no more liquor made, sold or drunk in the State. Nor would I hold out an inducement to temperance men to procure the adoption of a bad constitution, merely because it secured their favorite object.

But, Mr. President, this provision is not what its friends seem to think it to be; and if adopted by the people, does not secure to the friends of temperance what they seem to be expecting from it. It merely provides that "the Legislature shall not pass any act authorizing the grant of license for the sale of ardent spirits or intoxicating liquors." It does not repeal the present license laws, nor does it require the Legislature to repeal them, and notwithstanding the assurance with which the gentleman from Genesee claimed that in "adapting the laws to this constitution, the license laws must be repealed." I find no such guarantee. The constitution does not require the repeal of the present license laws, or even hint at such repeal. It simply professes to be satisfied with what we now have, and prohibits the Legislature from passing more. The gentleman from Genesee cannot controvert this statement. And I must say, that I have from the beginning regretted this combination of the enemies of temperance, who claim that this provision amounts to nothing, and the infatuated temperance men who claim that it amounts to everything; and I should be much gratified to see it submitted in a proper shape as a separate question.

Mr. GALE—I sincerely wish, Mr. Chairman, that this matter was got along with. This voting to have the matter reconsidered, is mere nonsense. When can we get through at this rate; reversing the

decision of the House from day to day? If there is not more stability in this body, we had better go home and let the people send other men.

This is said to be a nullity. It is a nullity. It is a nullity upon our statute books. Right here, under the capitol, we can see it is a nullity. For two years past this town has voted "no license;" and what we can see here applies as well to other portions of the State. The gentleman from Kent has given us an exception. He says that they put a good round sum upon the licenses. Those that took them might sell liquor; otherwise they could not. In my own town they voted no license for two years; as that did no good, they thought they would vote license, so as to have revenue; but the persons refused to take out license, on the ground that they could as well sell liquor without it as with it. There may be exceptions, but as a general thing it is a nullity.

Mr. EATON—This discussion reminds me of a saying of the member from Monroe, that "when a thing has lost its brains it is dead;" but I find that without brains it has come to life. The gentleman from Macomb tells us that he fears if embodied in the constitution the people will reject it. Have we not petitions from all parts of the State? Have not his constituents sent petitions praying that such a provision may be incorporated in the constitution? And if the people wish it, will it make any difference in what part it is placed? Will their votes count less if they find it there, whether it is in one place of the constitution or another?

The gentleman from Kent says the license law had a good effect, and that they made them pay a good round price. Those men, then, who can pay a good price to commit crime, can commit it. It is a license to commit crime, and it is an evil. Let us leave it as we did the banking law. That gave a greater blow to banks than any thing else. So it will be with the license laws; and the good sense of the people will recoil against the sale of ardent spirits.

Mr. WITHERELL—The city of Detroit voted no license, and the dealers banded together and withstood the operation of the law. The very next opportunity we had, we voted for license; for, by that means,

we could regulate them; license only being granted upon securities being given that the privilege should not be abused. License being thus granted, the dealers became a watch one upon the other. We insist that the shops shall close at ten o'clock, and that no liquor shall be sold upon the Sabbath day. Whoever breaks this regulation will be prosecuted by his fellows. They say "we will report you to the authorities;" and in that way the evil is corrected to a great extent. Now that city is as moral as any village in the State, in proportion to its numbers.

It is not a crying sin, not a crying evil. The drinking of liquor cannot be classed each time as a crime. If it is a crime, there has been a great deal committed in this village within a short time. We are taking a wrong course; every man will be warranted in doing just as he pleases. When the no license system went into operation in Detroit, many persons went into the business who could not procure license, because they had no character. Now respectable men are licensed—men of good standing.

I think that we are treading upon dangerous ground, and that we are not yet aware of the full extent of the evil. I think that the effect will be that the Legislature will not be able to touch the matter at all. I presume that ninety out of one hundred have the same desire in this Convention. Then why persist in the use of those particular words? Let us recommit and see if we cannot amend to meet the views of all.

Mr. CROUSE—I have listened for some time, and have been an impatient listener. A certain set of men are like what the Yankee soldiers are said to be—they don't know when they are whipped. Whether the section is recommitted or not, ardent spirits must be used for medicinal and mechanical purposes, and while the abuses should be checked as far as possible, the Legislature should have power to authorize the sale for the purposes for which it is just and proper.

Mr. ROBERTSON moved the previous question, but by request withdrew the call.

Mr. CORNELL moved a call of the Convention, but withdrew the motion.

Mr. WILLIAMS renewed the motion, and the same prevailed.

The roll being called, Messrs. P. R. ADAMS, S. CLARK, CRARY, GREEN, M. ROBINSON and SUTHERLAND, were absent without leave.

On motion of Mr. J. D. PIERCE, all further proceedings under the call were dispensed with.

The question being on Mr. COMSTOCK's motion to reconsider, the yeas and nays were demanded thereon; and the same was negatived by the following vote:

YEAS—Messrs. Alvord, Arzeno, Axford, J. Bartow, Britain, Ammon Brown, Butterfield, Chapel, Church, J. Clark, Comstock, Cook, Crouse, Daniels, Desnoyers, Fralick, Gardiner, Harvey, Hascall, Hafhaway, Roberts, Robertson, E. S. Robinson, Rix Robinson, Skinner, Storey, Tiffany, Town, Walker, Webster, Wells, White, Witherell, President—34.

NAYS—Messrs. W. Adams, Anderson, Backus, Bagg, Barnard, H. Bartow, Beardsley, Beeson, Alvarado Brown, Asahel Brown, Burns, Bush, Carr, Chandler, Choate, Conner, Cornell, Danforth, Dimond, Eastman, Eaton, Edmunds, Gale, Gibson, Graham, Hanscom, Hart, Hixon, Kingsley, Kinne, Lee, Lovell, Marvin, Mason, McLeod, Moore, Morrison, Mosher, Mowry, Newberry, O'Brien, Orr, J. D. Pierce, N. Pierce, Redfield, Soule, Sturgis, Van Valkenburgh, Wait, Warden, Whipple, Whittemore, Williams, Willard, Woodman—55.

Mr. CHURCH moved to strike from section 25 of the article, all after the word "security," in the 4th line, to and including the word "oath," in the 17th line; but withdrew the same, when

Mr. GOODWIN offered the following:

Resolved, That section 39 be committed to the select committee on the subject to which it relates, with instructions to prepare and report a section abolishing the existing laws authorizing the licensing of the sale of spirituous liquors, and prohibiting the Legislature from hereafter passing any law authorizing the same, together with a resolution providing for submitting such section separately to the people.

Mr. J. BARTOW—As there is a special committee appointed, would it be proper to forestall their action by this discussion and these instructions. We should wait a reasonable time for the report of the committee. The subject is committed to known

friends, and I have no doubt that they will be just to both friends and enemies; but, having committed it to their hands, it is improper to deny them the poor privilege of making a report. If it is worthy of being so referred, it is worthy of being reported upon. We should await their action, and we shall then probably have a basis upon which all can agree.

The CHAIR is of opinion that if recommitted, it takes the article with it.

Mr. BUSH—I think the chair is correct. The Executive message, when presented, is divided, and parts given to different committees; but this is the first time that I have listened to a discussion of this nature. A subject that has been referred to a committee before it has been finally settled, cannot be referred to a select committee without taking the whole bill with it.

Mr. BAGG—After spending two days, I did hope that nothing of this kind would have come from the President of this Convention. We are at the same old sixpence.

Mr. GOODWIN then addressed the Convention. (His remarks were not heard by the Rep.)

Mr. WILLIAMS did not like to stick a pin into a bladder, as the collapse was not agreeable. But he thought the wind ought to be let out of this argument, relative to courtesy due to the select committee. If gentlemen will turn to the journal of June 11, they will perceive that on that day Mr. McCLELLAND, the chairman on the Legislative Article, made his report, embracing this section. It became, of course, the property of the whole Convention, and was fully before us. Turn to the journal of June 17, and you will perceive that the select committee was then appointed, six days later. Where, then, is the want of courtesy in our deciding a question before us, when they were appointed and never referred to them. Besides, it would make no difference what they did, or did not report. The Convention would probably adhere to the principle so solemnly affirmed. He agreed with the gentleman from Berrien, [Mr. WHIPPLE,] that if recommitted, we shall have another discussion, such as we have had twice already. If the section is recommitted, when the committee report we shall have a discussion in committee of the whole, and another in Convention. So experience teach-

es. His friend from Oakland, his friend from St. Clair, his friend from Wayne, and all his friends would all come up to the new discussion of this question charged to the brim. He knew that he himself should, and he gave notice he would make longer and more tedious speeches than he ever had before. He was against recommitting, for the same reason that he was against the proposition yesterday of the gentleman now in the chair, [Mr. HANSCOM,] to recommit. If we went on in such a manner, our session would be prolonged to an interminable length. For himself, he wished to urge the business and get home. He hoped the motion of the President would not prevail. So far from there being any discourtesy to the select committee, in not entertaining it, the plain truth is, that the minority, by pressing this motion, show to the majority, who have again and again decided this matter, the grossest kind of discourtesy.

Mr. WHITE moved to adjourn; but the Convention refused to adjourn.

The question being upon the adoption of the resolution, the yeas and nays were demanded thereon. The Clerk having partly called the roll,

Mr. BRITAIN addressed the chair, when a motion was made to allow him to proceed, which was lost. The resolution was then lost by the following vote:

YEAS—Messrs. Alvord, Beeson, Britain, Butterfield, Chapel, Church, J. Clark, Comstock, Cook, Daniels, Desnoyers, Fralick, Gardiner, Hathaway, Roberts, Robertson, Rix Robinson, Storey, Tiffany, Walker, Webster, Wells, White, Witherell, President—25.

NAYS—Messrs. W. Adams, Anderson, Axford, Backus, Bagg, Barnard, H. Bartow, J. Bartow, Alvarado Brown, Ammon Brown, Asahel Brown, Burns, Bush, Carr, Chandler, Choate, S. Clark, Conner, Cornell, Crary, Crouse, Eastman, Eaton, Edmunds, Gale, Gibson, Hanscom, Hart, Hascall, Hixon, Kingsley, Kinne, Lee, Lovell, Mason, Moore, Morrison, Mosher, Mowry, Newberry, O'Brien, Orr, J. D. Pierce, N. Pierce, Redfield, M. Robinson, Soule, Sturgis, Sullivan, Sutherland, Town, Van Valkenburgh, Wait, Warden, Whipple, Whittemore, Williams, Willard, Woodman—59.

On motion of Mr. ROBERTS the Convention adjourned.

Afternoon Session.

The Convention was called to order by the PRESIDENT.

A quorum of members being in attendance, the Convention resumed the consideration of the unfinished business of this morning, the article entitled "Legislative Department."

Mr. CHURCH renewed his proposition of this morning, modified so as to strike out from the word "thereof," in line four of section 25, to and inclusive of the word "oath," in line 17.

Mr. COOK raised a point of order, "that the amendment to the section having been reported by the committee of the whole and concurred in by the Convention, it is not now in order to strike out a portion of it."

The PRESIDENT decided the proposition of Mr. CHURCH not in order.

Mr. J. BARTOW moved to reconsider the vote by which the Convention concurred in the amendment made by the committee of the whole to section 25.

Mr. CHURCH—I will take the method of my friend from Genesee, rather than take an appeal from the chair. I consider all this part of section 25 as of no avail whatever; and I base this opinion upon the testimony which has been given by the Printers themselves. Secondly; even if this clause furnishes us some protection against the frauds of printers, yet the ingenuity of this same craft will enable them to discover modes of taking the public money; that is, I believe an acknowledgment of one of them, that you may do as you choose, and they will still get their pay in some manner, as yet uninvited, if you fix the compensation below a living price. If this is so, then this is certainly out of place, in a document like this, which it is the business of this Convention to prepare for the people.

All this might be inserted in a law, or might form a part of a contract between the State and the Printers, but as a part of the Constitution it is highly objectionable.

Mr. J. BARTOW—While I made the motion to enable the gentleman from Kent

to present his views, I must dissent directly from the manner in which he presents his case. I do not concede for a single moment, that the Press or the Printers have a fair representation upon this floor. Upon the contrary, I believe they have been misrepresented, and that much has been said by mere typos, in reference to the craft. I consider that it is an honorable craft, and an honorable occupation, and has more influence than any other, when coupled with honorable intentions.

It is not true that the craft, as a craft, will steal from the State; standing ready to plunge their hands in the public treasury—standing as the thief stands with relation to the police officer, watching his opportunity to take advantage. Yet it has been thus represented, and by those who pretend to be of the same craft. I know it to be wrong, and I have waited patiently for the opportunity to say that it was wrong. And I do say that in the Constitution this legislation is wrong, and that it is wrong to place in this document the italics of the gentleman from Kalamazoo.

"Bills and resolutions shall be done in the usual manner, at one-third the price of solid matter."

Who ever heard of this, even in a law? And if it is at any time proper, it is only so by an act of the Legislature, prescribing their own conditions, previous to a contract being made. If you touch one amendment, you touch the whole; if you strike out a part, what will you do with the rest? It is like a pile of bricks set endways; touch one, they all fall down. But I beg leave to say it is an utter impropriety that such matters should be contained in the constitution.

It is disreputable to the people of this State to suppose that they cannot govern themselves by the usual course of legislation; to say that they are obliged to put in the original law of the land the conditions which should more properly form part of a contract between the State and the Printer. I appeal to the Convention if I am not correct; and if it is said that heretofore the Printers have had more than they ought, I say that it is disreputable to make such an argument. We are representing honorable men, and we should have full faith. I hope and credit that the people will govern themselves with ability. We

should believe they will send honorable men to the Legislature.

Mr. HASCALL—My object was to so regulate the public printing that it shall be better executed than it has been heretofore. The printing of the State has been done in a manner that every printer in the State would at once condemn with regard to its mechanical workmanship. These amendments apply to the manner and way in which the work should be done; nothing has been said about the price, neither do I wish to specify the price. The price has been taken too low, so that the printers have done their work in an unworkmanlike manner in order to get a fair compensation. The object is to prevent money from being taken from the public treasury, by the constructive prices that have been heretofore paid for the printing of journals and documents. This has always been left to the Legislature, and if they could prevent these wrongs, why did they not do so before? We have no better security that the next Legislature will do any better than the former. I think that the Convention should settle it. The State Printer will bring his influence to bear, and the course of the Legislature will be fluctuating. Printers seldom come into the Legislature. The Legislature will probably not understand the present amendment; they are liable to be deceived. The gentleman from Berrien has been in the Legislature for several years, and he can tell whether they have been able to check these bad practices which have prevailed. I move, therefore, that the motion to reconsider be indefinitely postponed.

Mr. REDFIELD—I fully appreciate the motives of my friend from Kalamazoo, and I supported it at the time; yet, upon further reflection, I think it might be dispensed with in the constitution. The printing might be let to the lowest bidder, and the conditions might be specified by law; that law will be in force, if enacted before the present contract expires. We should probably be better protected than we have been in other respects. I merely make these as suggestions, for I wish to protect the interests of the State, and if necessary should vote to retain the amendment of the gentleman from Kalamazoo; but we can probably arrive at the same end by the means I have suggested, without inserting

this provision in the constitution, and retain all that would be found necessary.

Mr. HASCALL—The Legislature is fluctuating. The influence of the press is such that the law might be repealed. I want to make it permanent.

Mr. VAN VALKENBURGH—I hope that the motion of the gentleman from Kent will prevail; I have set my face as a flint against this legislation. We are here to express fundamental principles and incorporate them in the constitution. I concur fully in the remarks of the gentleman from Genesee; we cast suspicion upon a class of our fellow citizens, and so far as I know them, I have found them honorable men, and no more liable to suspicion than any other class.

We do not legislate with regard to other matters, and I would ask why should we single out this more than others? I confess that I was surprised to hear the remarks that came from the craft. Their opportunities of knowing must be better than mine; but so far as I have had opportunities of judging, they are a high minded honorable class of citizens; and I trust that the motion of the gentleman from Kent will prevail.

Mr. J. BARTOW—The trouble with the gentleman from Kalamazoo, and ever will be, is that he distrusts the ability of the people to represent themselves in the Legislature. He shows this by his votes and motions. He distrusts the power of the people. Well, I do not give in to the common saying that 'he that doubts is damned;' yet a just confidence is due from the Convention to their constituents, and that just confidence should be shown. In his efforts to better the constitution, he has shown a suspicion that poisons the whole.

We should believe in the ability of the people to govern themselves. Why not legislate upon the public lands and other matters, as well as the printing? Yet it is manifest that it would be unjust and improper.

Mr. STOREY—I hope that the motion of the gentleman from Kent will prevail, because I don't know that anything will be saved. Contractors will make their bids according to the work to be performed. In the present system there is a good deal of what is called "fat" by the printers, and

contracts are let low, at a rate at which otherwise they could not live.

Mr. HASCALL—The object is to compel the printers to do their work in a workmanlike manner.

Mr. STOREY—I do not see the force of the objection. This is an innovation upon the established usages of printers, and I do not think that this Convention should take such a step. If the motion prevails, I shall offer an additional amendment, which was contained in the report of the committee, which I think will be sufficient to protect the State from being plundered by the printers.

Mr. BRITAIN—Mr. President, that this is one of the sinks into which the treasury has been flowing, and one of the abuses which the people sent us here to correct, no man in his senses will pretend to doubt. But, Mr. President, it is extremely difficult to make these corrections. Every member of this Convention will at once see that it is no difficult task, requiring moral courage and patriotic sacrifices, to stand here and defend the printers. They will also see that to stand here and defend the people's treasury from their exorbitant charges, is quite a different thing.

Sir, why have the people demanded at your hands biennial sessions, and even limited sessions of the Legislature? Why have they demanded low salaries? Why did one general burst of indignation go out against the Legislature of 1849 for paying to Munger & Pattison, the State Printers, a few dollars extra, making in all but the same price paid to the present State Printer? Why, sir, do the people look with so much disapprobation upon every measure of their Representatives calculated to increase the burdens of taxation? Why have the words "retrenchment" and "reform" become the catch words of each party; to be used by every political demagogue who wishes to obtain the confidence of the people?

Sir, it is because the people regard with extreme solicitude all unnecessary and improper drafts upon their treasury. It is because the people are extremely anxious to decrease the burdens of taxation. It is, sir, because the people have demanded "retrenchment and reform" at your hands, and at the hands of all their Representatives.

Now, sir, I shall not be disputed in regard to these statements. No sir, all will join me in the cry of "retrenchment and reform," and one universal shout will go up from this hall. But how, I would ask gentlemen, are the objects so much desired to be accomplished? Can it be done by joining in the popular cry of "retrenchment and reform," and at the same time permitting the treasury to flow out at all of the old leaks and as many new ones as our own interest and that of our immediate friends and accomplices can create? Can it be done by neglecting to bring forward any measure of reform ourselves, and opposing, from some pretended defect, every measure of reform proposed by others? Sir, I think not; the real reformer must stand ready to correct abuses whenever they present themselves—he must stop the leaks in the treasury, although it be flowing through them into the pockets of his best friends, and even though he do it at the hazard of their displeasure. And this, sir, is one of the reasons why we have so many pretended and so few real reformers.

Now, Mr. President, if we attempt to make any of these reforms, our confidence in the people is at once impeached, and we are tauntingly told by gentlemen that "the people can manage their own matters." Sir, the people cannot come here to manage their own matters; they are compelled to entrust them to the care of agents. Now, sir, no rational man entrusts his goods or treasure with agents until he has made a bargain with them and given them instructions relative to its general management. Can the State do it with less danger than an individual? Sir, the people have sent us here for the express purpose of making and executing on their behalf a contract between them and their future agents; and it is our special duty to see that this contract contains all the restrictive conditions, stipulations and obligations necessary to secure to the people economy, efficiency and fidelity from all of their future agents.

Mr. President, how stands the case under consideration? The gentleman from Kalamazoo has attempted to secure to the tax payer a little more economy in the expenditures for public printing. His proposition is no sooner read than a general on-

slaught is made upon him, and we are gravely told:—1st, "that his proposition is good for nothing, because the printers could get round it and still cheat the public;" 2d, "that the people must suffer if any change is made;" 3d, "that the gentleman has gone beyond his knowledge, that he is a mere typo;" and several other things equally important.

Now, Mr. President, in answer, I would say, 1st: We do not know that the proposition of the gentleman from Kalamazoo is the best that can be devised for the correction of this existing evil; but we do know three things: 1st, that the evil actually exists: 2d, that we are in duty bound to correct it: 3d, that those who know how the printers get round it, are in honor bound to suggest such amendments as will effectually restrain them.

2d. We do not know but that the people must suffer from any change which can be made; but some of us believe that if they do suffer from any change which subjects this business of printing to the same rules which are adhered to in other industrial pursuits, it will be like the suffering of a victim while being relieved from a consuming cancer.

3d. We do not know but that the gentleman from Kalamazoo has gone beyond his ability; but if he has, and feels his inability to arrest the progress of this extravagant expenditure, he will not be alone upon this floor. Sir, I was about to say that any person who could effectually correct this evil, might with propriety flatter himself that he was capable of producing any other reform which we have been called upon to make. We do not know but that the gentleman from Kalamazoo is a mere "typo," nor do we think it important for this Convention to know. Of what consequence is it, whether the person who exposes a fraud or introduces a salutary measure, be a printer, a merchant, or a farmer?

Mr. President, what has the gentleman from Kalamazoo done to merit the remarks which have fallen from the gentleman from Genesee? Sir, I regretted to hear the allusions made by the gentleman, and was glad that the gentleman from Kalamazoo did not think proper to answer them. Sir, it is with the propositions and measures of gentlemen that we have to do,

and not with the persons themselves. I here protest against the right of any individual to prejudice the propositions of any member, by creating prejudices against the man, and then, as in times of old, attempting to prove that "nothing good can come out of Nazareth." Sir, it is an unholy practice, and the Convention should never be drawn by the designing from the proposition to the man himself. Representatives have an equal right to the privileges of this hall, charged as they are with the interests of their constituents. Reflections upon the representative are reflections upon his constituency; and representatives who regard either their own duty or the rights of others, will not presume to make them.

But gentlemen say that the contract system provided for in this constitution will be an effectual remedy for all of these abuses. How easy is it for gentlemen to be in error. Have not these abuses existed under the contract system? Most certainly they have; and this is not all. The contract system is really the father of most of them.

Mr. President, I have heretofore remained silent upon this subject. I might have been silent now, had I not been called upon. But, sir, I have heard with pain and regret, these abuses, which are almost entirely the legitimate consequences of our badly digested system, attributed to the worst motives, and your printers, who, under the common prerogatives of business men, have wisely made the best bargains they could with you, and looked well to their own interests in the settlement of their amounts with you, branded as swindlers, plunderers, thieves and robbers.

Sir, I was at an early day connected with the public printing of Michigan, and I have felt a deep interest in the manner in which it has been done from that time to the present. I was two years chairman of the committee on printing, while a member of the Legislative Council, during which time we took the printing from the three newspaper establishments in Detroit, between whom it had been previously divided, and who had silently consented to receive one dollar and twenty-five cents per one thousand ems for composition, and one dollar and twenty-five cents per token for press-work. We gave it all to one of these es-

tablishments, and reduced the price to sixty-two and a half cents per thousand ems for composition, and sixty-two and a half cents per token for press work, it being a reduction of just fifty per cent in the price. And yet, sir, we received the common reward of reformers; for the two publishers losing the printing, blackened us from one end of the State to the other, because we did not reduce the price still lower.

Well, sir, I was also a member of the first printing committee appointed under the State constitution, and if my memory serves me, drew up the law under which your first State printer held his appointment, and the same prices were continued to him which had been established by the legislative council. But, sir, we only paid or intended to pay for the work actually performed, to wit: in estimating composition we multiplied the number of ems in a line by the number of lines in a page, and this product by the number of pages printed. Work ordered by the Senate and furnished both houses, was only charged to the Senate; and work ordered by the House and furnished the Senate, was only charged to the House; and these amounts united, went into the appropriation bill as the compensation for State printing. The State printing soon became an object, because it was a heavy, cash business; and various expedients were resorted to for the purpose of wresting it from the hands of the State printer, the most effectual of which was that of making the people believe that they doubled the price for all the printing done. This expedient at last succeeded, and the price was immediately reduced from fifty to seventy per cent per thousand ems, and per token. But to the astonishment of the people, the amount drawn from the treasury was not diminished by the low prices, but in some cases even increased; and here, sir, gentlemen may find, even under the contract system, the origin of the very evils of which they complain, and which they so confidently believe the contract system alone will correct.

Mr. President, I am always unwilling to attribute anything to improper motives so long as I can find any other. I do not believe the present evils originated in a desire to plunder the State. I believe the printers to be like other business men, and

as honest as other business men, and as anxious to make money as other business men, provided they could make it honestly; that is, by making good bargains.

There were two parties in the State; each of which was anxious to obtain the printing, and each of which knew that the other would bid very low and run the hazard of sustaining himself, by charging double, treble and quadruple composition; that is, the State may be charged with composition and press-work on two hundred copies of Auditor General's reports, furnished the Auditor General. It may be charged with one thousand copies, ordered by the Senate. It may also be charged with fifteen hundred copies furnished the House of Representatives as per their order; and the State may also be charged with five hundred copies published in the bound volume of joint documents; thus, in fact, getting pay for composition four times, when but one actual composition had been made. The lines may also be leaded to double width, and "slugged" to three or four times the common space, as in the case of bills, and charged as solid matter; and in this way get pay for double, triple, and quadruple composition. Also, in publishing journals of one page and part of another, they can be published upon a sheet of four pages, and upon opposite sides of the sheet, making two or more blank pages, upon which composition may be charged.

In regard to press-work, it is only necessary to say that sixteen pages may be printed at one impression or pull of the press; two hundred and forty of which make a token. This sheet may be divided into sheets of either four or eight pages on a side; thus giving pay for double or quadruple press-work. Now sir, can it be at all astonishing that the amount paid for printing went up, as the price paid went down?

"Oh! but it is so dishonest," a gentleman remarks; well, let us see how dishonest it really is. Suppose yourself, or my friend on the right, who thinks it so dishonest, to have been a member of some previous democratic administration, with a knowledge of the fact that, in consequence of there being no legally established rules regulating the manner in which the printing shall be executed and the printers account

made out, the crafty proprietors of the whig press had resolved upon underbidding for the public printing, and thus, by securing it to themselves, be enabled to establish an espionage over the administration, and by perverting its acts and turning every thing to the worst account, embarrass and perhaps disgrace it, would you not be anxious to see the proprietors of the democratic press bid low enough to secure the printing, and save the administration this embarrassment? And after the printer had rendered the administration and the State this service, would not they be willing to see his account so made out as to save him from bankruptcy, and encourage either him or some other patriot to step into the breach for the salvation of the State again, should occasion require it. Sir, I believe that both you and the gentleman would.

It is under this loose system that the evils complained of have been created, and fastened upon the State. Yes sir, and it is under this loose system that the State may, while contracting at a very low figure, be compelled to pay about double price for it. Do gentlemen wish to perpetuate this system? Sir, I trust not. Can they look to the contract system for the necessary correction? Certainly not; for that created it, and cannot fail to continue it, unless prevented by restrictions.

The interest of the State, and certainly the honor of the craft requires that the exact manner in which the printing shall be done and paid for, should be legally established and understood by the printers before the bids are made. This would enable the printer to obtain fair prices without fear of being underbid, and relieve him from the necessity of making those constructive accounts against the State, which were in the first place forced upon him by an apparent necessity, and subsequently, perhaps, fastened upon him by his money-loving propensities.

I had hoped that the gentleman from Jackson would favor us with a proposition to save the "honor of the craft," but he has not yet done so. I do not know that this amendment is exactly right, but until I find a better one I am bound to go for it, under a conviction that the general principles under which this branch of the public

service is to be regulated, should be settled in the constitution.

Mr. SULLIVAN remarked that he was in favor of the reconsideration. It had appeared to him from the beginning, and he understood that it was now conceded by the gentleman from Kalamazoo, [Mr. HASCALL,] that his project would not save one cent to the treasury. He proposes, in substance, that hereafter there shall be no constructive printing—a printer shall be paid only for the work actually done by him. He proposes also a new mode of computing that labor. Now sir, is not the proposition a self-evident one that prices must be regulated by the amount of labor performed—that the mode of computation is entirely immaterial—that calling one page twenty pages, or twenty pages one, does not vary the matter. If you compel the public printer to adopt a new mode of reckoning his labor, he must and will charge accordingly. The gentleman from Kalamazoo insists that his project will lead to a better mechanical execution of the public printing. But, really sir, whether the mechanical work of the printer shall be executed more or less neatly, is a matter of not sufficient importance to look after in the constitution. It is all more appropriately a matter of contract between a committee of the Legislature and the public printer. It is such a matter of detail as is not inserted in any constitution of this Union, and such, he trusted, as would not be incorporated in our own.

Mr. McLEOD—As I know nothing of printing as an art, I shall say nothing of the technical terms; but for general reasons, the amendments sought to be introduced do not comport with my ideas as being proper to be introduced in a constitution. A constitution is legislation for the masses, and should not descend into detail.

The object in calling this Convention is to act upon the great frame work of government—upon the departments, the Executive—not to act upon particular trades or callings; and I see no propriety in retaining this amendment, although I think the gentleman from Kalamazoo is honest in his motives, and that in a proper place the amendments would effect their object. But in this constitution we have no more right to retain them than if the judicial

bill should regulate lawyers' fees, the mode of declaration; or in the Executive department should regulate the duties of the county officers. They are more properly the terms between the publisher and the printer, than for constitution makers who are to act upon general principles in the departments of government, not upon trades or callings.

Mr. HASCALL asked the yeas and nays, and the same being ordered, the motion prevailed by the following vote:

YEAS—Messrs. Alvord, Arzeno, Axford, Bagg, Barnard, H. Bartow, J. Bartow, Beeson, Ammon Brown, Burns, Bush, Butterfield, Carr, Church, J. Clark, Cook, Cornell, Crary, Danforth, Eastman, Fralick, Gardiner, Gibson, Graham, Hanscom, Hart, Kingsley, Kinne, Marvin, Mason, McLeod, Mosher, Mowry, Newberry, O'Brien, Redfield, Roberts, Robertson, E. S. Robinson, Rix Robinson, Skinner, Soule, Storey, Sullivan, Van Valkenburgh, Warden, Webster, White, Whipple, Whittemore, Woodman, President—52.

NAYS—Messrs. W. Adams, Anderson, Backus, Beardsley, Britain, Asahel Brown, Chandler, Chapel, Choate, S. Clark, Comstock, Conner, Crouse, Daniels, Dimond, Eaton, Edmunds, Gale, Green, Harvey, Hascall, Hathaway, Lee, Lovell, Moore, Morrison, Orr, M. Robinson, Sturgis, Tiffany, Town, Wait, Walker, Wells, Williams, Willard, Witherell—37.

Mr. ROBERES offered the following as a substitute for the entire section:

"The Legislature shall provide their fuel and stationery, the printing and binding of their laws and journals, and all other printing they may wish executed, in such manner as they may deem expedient."

Mr. WITHERELL moved to amend the substitute by striking out the last clause, and inserting the words "by contract;" which he subsequently withdrew.

Mr. ROBERTS—I did not wish to involve myself in this discussion, but I feel called upon to say a word in defence of the art of printing. I suppose I am the oldest printer upon this floor. I have served an apprenticeship in a newspaper office where the greatest amount of printing was done in this Union; and have myself had the management of a printing and book binding establishment. I think from these various circumstances I

am better informed upon these subjects than any gentleman upon this floor. I wish to say that I consider great injustice is done to the printing community by the comments of gentlemen. No printer in this State has ever robbed or plundered the State to the amount of one dollar, or has received one dollar more on the contract than he was fairly entitled to. Have your State Printers been printers? They have not.

And to go back and examine the contract system, let us go back to '43, when the first contract was given to Mr. Ellis, and see how the work was executed. Upon account of its being taken at too low a price, he could not pay workmen, and for one fortnight we could not get a journal printed; and if gentlemen will look at them as they are printed, they will perceive that they are scarcely legible.

Well, sir, who was the next? A man, sir, who did not, when he went into the editorial department, know a type from a hand-saw, or a book from a block of wood. How did he obtain the contract? In a manner that shows the beauties of the contract system; for, one bidder was two cents per thousand ems lower than the person who obtained it; and the person who was unsuccessful had all the material that was required, and could give all the security that might be necessary, but he was thrust aside on account of political favoritism. The third attempt was with Mr. Munger. He was a printer, but he could not execute the work of the Legislature, because he had taken it at too low a price; he could not pay his men at the rates for which he had agreed to do the work.

I stated, when in committee of the whole, that it had invariably failed. It has failed in Congress, and it has failed in each Legislature where it has been attempted to be established; and we must go back to the old principle of the Legislature electing their State printer, or leaving it to the people. If we place the amendment in the constitution, and elect the printer by the people, there will be but little fear that he will deceive the Legislature. His duty will be known; and I venture to say that no honorable minded printer will break the law giving him a fair compensation.

I have listened to some of the remarks made this morning, with sorrow and re-

gret. I speak on this subject without the slightest personal feeling in the matter. I live in a territory where the question has but little influence, and I never intend to be again connected with the public press.

On motion of Mr. CHURCH, the amendment made in committee was amended by striking out all after the word "thereof," in the 4th line, to and inclusive of the word "oath," in the 17th line.

The amendment as amended was then concurred in.

Mr. BRITAIN moved to amend the section by adding thereto the words "nor shall constructive composition or press-work in any case be paid for," upon which he asked the yeas and nays.

And the same being demanded, the amendment was disagreed to, as follows:

YEAS—Messrs. W. Adams, Anderson, Backus, Bagg, H. Bartow, Beardsley, Britain, Asahel Brown, Burns, Carr, Chandler, Chapel, S. Clark, Comstock, Cook, Crouse, Daniels, Eaton, Edmunds, Gale, Green, Harvey, Hascall, Hathaway, Hixon, Lovell, Moore, Morrison, Mosher, O'Brien, Orr, Redfield, Robertson, M. Robinson, Sturgis, Tiffany, Town, Wait, Walker, Wells, Whipple, Williams, Willard, Witherell—14.

NAYS—Messrs. Alvord, Arzeno, Axford, Barnard, J. Bartow, Beeson, Alvarado Brown, Ammon Brown, Butterfield, Choate, Church, J. Clark, Conner, Cornell, Crary, Danforth, Dimond, Eastman, Fralick, Gardiner, Gibson, Graham, Hanscom, Hart, Kingsley, Kinne, Marvin, McLeod, Mowry, Newberry, J. D. Pierce, Roberts, E. S. Robinson, Rix Robinson, Skinner, Soule, Storey, Sullivan, Sutherland, Van Valkenburgh, Warden, Webster, White, Whittemore, Woodman, President—46.

Mr. WILLIAMS moved to amend the section as follows:

Insert after "journals," in the second line of section 25, as follows: "all blanks, paper and printing for the executive departments; all advertisements of tax sales in counties where two or more newspapers are published."

Mr. CRARY moved to amend the amendment by striking out all after the word "departments."

Mr. WILLIAMS asked the yeas and nays.

And the same being demanded, the amendment was agreed to, as follows:

YEAS—Messrs. W. Adams, Alvord, Arzeno, Bagg, Barnard, Alvarado Brown, Bush, Chapel, Church, S. Clark, Cook, Cornell, Crary, Danforth, Eaton, Fralick, Gardiner, Graham, Hanscom, Hart, Hascall, Kingsley, Kinne, Lee, Marvin, McLeod, Morrison, Newberry, J. D. Pierce, Redfield, Robertson, E. S. Robinson, Rix Robinson, Skinner, Soule, Storey, Sturgis, Sullivan, Town, Walker, Worden, White, Whipple, Whittemore, Willard, President—46.

NAYS—Messrs. Axford, Backus, H. Bartow, J. Bartow, Beeson, Britain, Ammon Brown, Asahel Brown, Burns, Butterfield, Carr, Chandler, Choate, J. Clark, Comstock, Conner, Crouse, Daniels, Dimond, Eastman, Edmunds, Gibson, Green, Harvey, Hathaway, Hixon, Lovell, Mosher, Mowry, O'Brien, Orr, Roberts, M. Robinson, Sutherland, Tiffany, Van Valkenburgh, Wait, Webster, Wells, Williams, Witherell—41.

Upon Mr. WILLIAMS' amendment he asked the yeas and nays, and the same was agreed to, as follows:

YEAS—Messrs. Backus, Bagg, H. Bartow, Beardsley, Britain, Alvarado Brown, Asahel Brown, Bush, Carr, Chandler, Chapel, Choate, Church, S. Clark, Comstock, Conner, Cook, Cornell, Crary, Danforth, Daniels, Eastman, Eaton, Edmunds, Gardiner, Graham, Green, Harvey, Hascall, Hixon, Kingsley, Lee, Lovell, Marvin, McLeod, Morrison, Mosher, Orr, Redfield, Robertson, M. Robinson, Rix Robinson, Skinner, Soule, Sturgis, Sullivan, Wait, Walker, Warden, Webster, White, Whipple, Williams, Willard, Witherell, President—56.

NAYS—Messrs. Barnard, Ammon Brown, Butterfield, J. Clark, Dimond, Fralick, Gibson, Hanscom, Kinne, Newberry, Roberts, Sutherland, Town, Whittemore—14.

Mr. HASCALL moved to amend the section by inserting after "lowest," in the 3d line, the word "responsible."

The motion was withdrawn.

The question recurring on the substitute proposed by Mr. ROBERTS,

Mr. BRITAIN asked the yeas and nays, and the same were taken with the following result:

YEAS—Messrs. McLeod, Roberts, Sutherland—3.

NAYS—Messrs. Alvord, Anderson, Arze-

no, Axford, Backus, Bagg, Barnard, H. Bartow, Beardsley, Beeson, Britain, Alvarado Brown, Ammon Brown, Asahel Brown, Butterfield, Carr, Chandler, Chapel, Choate, Church, Comstock, Conner, Cook, Cornell, Crary, Crouse, Danforth, Daniels, Dimond, Eastman, Eaton, Fralick, Gardiner, Gibson, Graham, Green, Hanscom, Harvey, Hascall, Hathaway, Hixon, Kingsley, Kinne, Lee, Lovell, Marvin, Morrison, Mosher, Mowry, Newberry, O'Brien, Orr, J. D. Pierce, Redfield, Robertson, Skinner, Soule, Sturgis, Sullivan, Tiffany, Town, Van Valkenburgh, Wait, Warden, Webster, White, Whipple, Whittemore, Williams, Willard, Woodman, President—72.

So the substitute was not adopted.

Mr. WILLARD moved to amend section seventeen of the article by striking out "three," wherever it occurs, and inserting "two." He moved a call of the house; and the same being ordered, the roll was called, and Messrs. P. R. ADAMS, J. CLARK, GALE, HART, MASON and N. PIERCE were absent without leave.

On motion of Mr. WOODMAN, all further proceedings under the call were dispensed with.

Mr. VAN VALKENBURGH—Mr. President: I hope, sir, the amendment of the gentleman from Van Buren will prevail. I intended to have moved this amendment, but the gentleman from Van Buren has taken the wind out of my sail, but he can't take away my thunder. I am in favor of this amendment, sir, because the object of this Convention is reform; we were called here to reform men out of office—to reform down the salaries, and to reform money into the treasury, and this measure is calculated to promote these objects.

It is a democratic measure, and I am a democrat; a progressive democrat; not exactly a young democrat, but of the young, old democracy, of the Barnburner Hunker species. I am of the old Jeffersonian school, and I now stand upon the National platform, with the Cass democracy. The "Tribune," when it reported me a few days since as saying, "with God and General Cass for our polar star, we should do well," reported me falsely, sir; but I do say, with the fear of God before us, and General Cass for our

political leader, we shall take front rank in the States of our Union. I am in favor of this measure because it is just; it is a measure of reform due to our constituents; due to the laboring classes—the producers of our land; they expect it from us, and their expectations must not be disappointed.

The democratic doctrine is equal rights; the greatest good to the greatest number; and this is my doctrine. I have always battled in the democratic ranks—I have stood by her firm and unmoved these forty years; through weal an through woe; in prosperity and adversity; through good report, and through bad report; when she has been in the ascendant, and when in the minority. I stood by her when the fooleries of 1840 were sweeping over the country, when

"Van, Van, you'r a used up man," was reverberating from land's end to land's end; and some of our democrats, through the influence of hard cider, coon skins, two dollars a day and roast beef, with other appliances, were induced to deny the faith and go over to the enemy. I am not wedded to her, sir, through blind attachment, but because I believe in her principles, under which we have been fostered, and flourished until our government is the envy and the pride of the world. I represent, sir, in part, the noble, whole souled democracy of Oakland. When first solicited to become a candidate for the office I now hold, I *very modestly* declined; but when the solicitation was renewed, being like most political men of rather easy virtue upon this subject, I yielded, and was much gratified to find by the result of the canvass, that my constituents had not only given me the full vote of the party, but had pushed me a little ahead of all my colleagues. If any have cause of zeal and devotion in behalf of his constituents, I have. And I now say to them, in the language of Ruth to Naomi, "whither thou goest, I will go; where thou lodgest I will lodge; thy people shall be my people, and thy God my God."

I support this measure, sir, because the amount proposed—two dollars per day—is sufficient, is abundant compensation. Few of our laborers get more than one dollar per day for toiling from ten to fourteen hours; and why should their servants,

who think it hard to spend from six to eight hours per day in this hall, be entitled to more than this amendment contemplates? But gentlemen tell us that there are men upon this floor who make great sacrifices at three dollars per day; this is doubtless true, sir, of professional men; many of them could make much more in their business at home, pecuniarily, than they do here; but this, sir, we credit to account of their patriotism. And, think you they would be here the less on account of the pay? I tell you, no sir. Those men of mind, of talent, of influence, of patriotism, would still be found in your Legislative halls; and a class of heartless politicians, whose only object is the pay, would be excluded; the character of your Legislature would be improved, the business done promptly and efficiently, and much more saved to the people.

Sir, in looking over our manual, I find a majority of the delegates on this floor are farmers, if we include two or three merchants, &c., and the "miscellaneous" gentleman from Wayne, whom we claim; and unless they have been more successful than your speaker in that business, they have fallen far short of two dollars per day, and can make more in the halls of the Legislature at that price, than on their farms. I have often, sir, in by-gone days, seen deliberative bodies, but I have never looked upon so large a body of men, containing so much mind, so much talent, so much moral character, as is now arrayed before me. And in this Convention we find more than one-half are farmers, comparing favorably with the most talented upon this floor; men of clear heads and pure hearts; and although some of these may make pecuniary sacrifices by their attendance here, we claim for them too, some patriotism, some devotion in the cause of their country; and I pledge you, sir, they will always be ready to make necessary sacrifices for their country's good in the Legislative hall or the tented field. Many of them have done so, sir, and should the opportunity again offer, you will find them ready to sacrifice themselves upon their country's altar, should it be necessary.

In the war of 1812, your speaker had but just commenced his military career, and held the office of first private in a company of infantry; his country called,

and he shouldered his knapsack and his rifle, and marched to the battlefield. In the recent war with Mexico he had somewhat advanced in military honors, and held the office of General, in which capacity he tendered his services to Gov. Wright of New York, when that State was called upon to contribute to the army; but there were so many patriots in advance of him, that he was constrained to remain in abeyance until some farther opportunity should offer; that opportunity did not offer, and he was obliged to remain at home, an inactive spectator, while my friend and colleague, [Mr. HANSCOM,] our valiant sergeant-at-arms, and others, marched to the Halls of the Montezumas and gathered their laurels.

Now, sir, I contend the pay contemplated by the amendment of the gentleman from Van Buren, is sufficient to remunerate any one who loves his country for his services to that country. We wish to address their patriotism—not their cupidity; and I call upon the delegate from Macomb, [Mr. WALKER,] who looks so wistfully and smiles so blandly upon the Indian country, who advocates so feelingly the interests of Montcalm, Newaygo, Oceana, and, indeed, all the north—I call upon him to come to the rescue and aid the county of Oakland in this measure of reform, if he wishes to obtain votes there; I ask my 'miscellaneous' friend from Wayne to help us with his eloquence and influence; I implore my old friend from Kalamazoo, [Mr. S. CLARK,] with his clear head and democratic heart, to aid us in this measure of reform, and to bring with him his colleague, the amiable Judge, and have him speed some of the barbed arrows from his quiver at the enemies of this measure; I call upon the venerable delegate from St. Clair, the sea-faring gentleman, with all his nautical tact to aid us in trimming the craft and steering safe into port; I ask my urbane friend from St. Joseph, the farmers' advocate, the orator of the State Agricultural Society, to join hands with us and give us a hearty lift; we ask our erudite friend from Kent to aid us with his legal knowledge and devotion in this cause of reform; I invoke to our aid the sagacious delegate from Calhoun, the military gentleman I mean, my compeer, who, they tell me, always sleeps

with one eye open when the democracy is in danger—I ask him to aid us with his brilliant talents and his extensive influence in this democratic reform; we trust in the efforts of our friend from the *aurora borealis* district for his aid, and ask him to emit some of his lightning flashes in behalf of our cause, that it may triumph over its enemies; I call to the combat my valient colleague and orthodox friend, [Mr. WOODMAN,] who so vigilantly guards the public treasure from the “electioneering clergy,” to protect that treasury from the cupidity of exacting and insatiate patriots; I call upon my *extra progressive* colleague, [Mr. AXFORD,] on whose motion my resolution to suspend the pay of delegates who unnecessarily absented themselves from this Hall, was indefinitely postponed—I call upon him to do something to redeem himself from the odium of that measure, and aid us in passing this amendment; I call upon my neighbor [Mr. CHAPEL] who has heretofore so largely aided in relieving the treasury of its burthens, upon whom we can always depend when reform is the order of the day—we ask his aid in replenishing the treasury, that it may not be exhausted when he shall besiege future Legislatures; we call upon you one and all, gentlemen of the Convention, friends of reform, to come to the rescue and aid us in this reform so loudly demanded by the people—aid us in saving to the tax payers one-third of the amount heretofore paid to your legislators. Show your faith by your works—give this measure your hearty, your united support, that when you return to your homes and your constituents you may hear the good plaudit:—“well done, good and faithful servants.”

Mr. DESNOYERS—I have not been called on by the gentleman from Oakland for my assistance.

When the gentleman from Van Buren first brought up the motion, I felt very much inclined to oppose it; but the arguments of the gentleman from Oakland have nearly convinced. I think he is correct; for if the next Legislature is to be composed of members like him, I think that \$2 per day will be enough, and too much, for expending the time of the Legislature in making long, foolish speeches and sermons—talking about nothing. I think that for that class of legislators a very small sum is sufficient.

Mr. J. D. PIERCE—I have no occasion to make Buncombe speeches for the purpose of making political capital. I stand here prepared to do what is just and proper and right in regard to this measure; and I consider that it is no more than right and just that we should give our representatives \$3 per day. If any gentleman will take his pen and a piece of paper and calculate the expenses, he will find that at \$2 per day he will not have \$1 per day to pay for his services; and what kind of a representative must that man make whose time is not worth \$1 per day at home. You can go further, and give the representatives nothing, and then you will have a class upon this floor the same as it is in Great Britain. There the moneyed class can only be represented. And I want it so that every farmer can leave his business, and come and represent the interests of the people without sustaining pecuniary loss. I shall vote against striking out, and I shall be sustained by the county that I have the honor to represent; for I only know of one man who ever complained of the votes that I have given on this question, while I have had the honor of a seat in the Legislature.

Mr. HANSCOM—I think that I know the sentiments of the people of Oakland, and I think that there is too much integrity, too much good sense in that county, to wish that any person should vote for less than \$3 per day. I believe they would denounce any one who votes differently, and say that he was endeavoring to make a little capital at the expense of his own good judgment. They don't exact it—they don't wish it—and they would scout the man who should desire to reduce it to \$2 per day.

Mr. ALVORD—The gentleman from Oakland calls upon us to show our faith by our works. Let him do so, and for his services refuse to take more than \$2 per day.

A division of the question was ordered upon the proposition of Mr. WILLARD, and the yeas and nays being demanded, the motion to strike out was lost by the following vote:

YEAS—Messrs. BACKUS, Asabel Brown, Bush, Carr, Chandler, S. Clark, Comstock, Cook, Danforth, Edmunds, Green, Harvey, Hascall, Hixon, Lovell, Morrison, Newberry, Sturgis, Town, Van Valkenburgh,

Wait, Webster, Wells, Williams, Willard, Witherell—26.

NAYS—Messrs. W. Adams, Alvord, Anderson, Arzeno, Axford, Bagg, Barnard, H. Bartow, J. Bartow, Beardsley, Beeson, Britain, Alvarado Brown, Ammon Brown, Burns, Butterfield, Chapel, Choate, Church, J. Clark, Conner, Cornell, Crary, Crouse, Daniels, Desnoyers, Dimond, Eaton, Fralick, Gale, Gardiner, Gibson, Graham, Hanscom, Hart, Hathaway, Kingsley, Kinnene, Lee, Marvin, McLeod, Moore, Mosher, Mowry, O'Brien, Orr, J. D. Pierce, Redfield, Robertson, E. S. Robinson, M. Robinson, Rix Robinson, Skinner, Soule, Storey, Sullivan, Sutherland, Tiffany, Walker, Warden, White, Whipple, Whittemore, Woodman, President—65.

Prior to the announcement of the result, Mr. ROBERTS was excused from voting.

Mr. BAGG proposed the following amendment to the article:

Insert after "township," line 9, 'section 4, the words "or city," and add at the end of the section, the following:

"And when any township or city shall contain a population which shall entitle it to more than one Representative, then such township or city shall elect the number of Representatives to which it shall be so entitled by general ticket."

Mr. BAGG—This is the "last of the Mohegans." I trust that this Convention will at least let the cities escape the single district system. My friend from Calhoun, in his argument in favor of single districts, made use of the argument that the people of a whole county could not become acquainted with the candidates; but this cannot apply to cities. There will be a number of cities entitled to more than one Representative before the next fifteen years comes round, and there is a necessity for cities electing by general ticket; as, however advantageous it may be considered by some in a county, in a city it leads to colonization, fraud and corrupt practices, which tend to impair the purity of elections.

Mr. ALVORD—This is a question of considerable importance. As other gentlemen may wish to express their views upon this subject, and it being the usual time for adjournment, I move that this Convention do adjourn.

Which motion prevailed, and the Convention adjourned.

THURSDAY, (33d day,) July 18.

The PRESIDENT called the Convention to order at the usual hour.

Prayer by the Rev. Mr. SANFORD.

RESOLUTIONS.

Mr. CORNELL submitted the following:

Resolved, That from and after to-day, the morning sessions shall commence at eight o'clock and adjourn at eleven o'clock A. M.; the afternoon sessions shall commence at three o'clock and adjourn at six o'clock P. M., until otherwise ordered.

Mr. C. said—Mr. President: I do not know that I have fixed the hours that will be acceptable to members, but I wish to establish a principle. While the weather is so warm, under very protracted sessions the physical powers become prostrated. Some portion of the time was taken up unprofitably yesterday. Members became irascible, and did not do the business with that calmness with which they attended to it in the morning. May we not protract a session so as to sink both the mental and physical powers? We have been many of us accustomed to out-door exercise, and we cannot accommodate ourselves to such long confinement as those habitually engaged in more sedentary pursuits. During the recess we want time for rest and exercise. If the resolution I have sent up is not proper in its details, I hope some gentleman will propose an amendment; anything reasonable, I am willing to accept.

Mr. HASCALL moved to strike out the words "and adjourn at eleven."

Mr. ASAHIEL BROWN moved to strike out all after the words "eight o'clock."

Mr. ALVORD said—Mr. President: I hope the motion to strike out will not prevail. It is a fact that must be obvious to the members of the Convention, that it is utterly impossible for gentlemen to sit in this Hall four hours each session, without impairing their health. I know I have impaired my own health by sitting four hours and a half every morning. I know it must operate so on a large portion of the members. These long sessions in this hot weather, in a house imperfectly ventilated, we shall find a ruinous course; as remarked by the gentleman from Jackson, [Mr. CORNELL,] after sitting here three or four hours, gentlemen become irritable; they do not do business with that freshness as in

the morning; and I believe we ought to have shorter sessions in the morning. It is not profitable to sit so long; with shorter sessions in the morning, we should get along with business much more rapidly than we now do.

I am willing (said Mr. A.) to meet here early in the morning; but I would divide the time so that we should not sit over six hours a day. Experience has proved that it is as much as can be done by a deliberative body; they cannot do more for the State without violating the law of self-preservation. I hope, sir, the resolution will prevail.

The question was taken on Mr. HASCALL's amendment, and lost.

The question recurring on Mr. ASAHEL BROWN's amendment to strike out all after 8 o'clock,

Mr. REDFIELD would prefer to meet at 7 o'clock.

Mr. EATON hoped the motion to strike out would prevail. He was willing to fix the time of commencement of the morning session at six, seven, or eight o'clock; but would not fix the time of adjournment; it might work badly.

The question was taken on striking out and lost.

Mr. EATON moved to strike out "eight" and insert "seven."

Mr. AXFORD—If the gentleman will think one moment, he will see we cannot get our journals at that time, which are wanted the first thing in the morning.

Mr. WALKER suggested half past seven.

Mr. EATON accepted it.

Mr. CORNELL said there seemed to be some objection to meeting at that time. We cannot get our journals—some of the members board at a distance from the capitol; it will be difficult for them to get breakfast and get here by that time.

Mr. DESNOYERS moved to lay the resolution on the table. Lost.

The question recurring on the amendment to strike out "eight" and insert "half past seven,"

Mr. WHITE hoped it would not prevail. Under the present arrangement, it is fifteen or twenty minutes after the appointed time before the roll is called. Members should agree to meet at a convenient time and attend to it with promptness. The bu-

siness before the Convention would be better done if members had time for rest and reflection. He was in favor of the resolution of the gentleman from Jackson.

Mr. FRALICK moved to strike out "and shall adjourn at eleven o'clock and at six o'clock."

Mr. HASCALL—It is always in order to move to adjourn. If any particular business were on hand at the hour of adjournment, it might facilitate business to continue beyond that time.

The motion to strike out prevailed.

Mr. WOODMAN moved to strike out "three o'clock" and insert "two o'clock." Lost.

The resolution as amended was adopted.

Mr. BRITAIN submitted the following:

Resolved, That from and after the adoption of this resolution, no member shall speak more than eight minutes at any one time, without leave of the Convention.

Mr. WITHERELL moved to strike out "eight" and insert "five."

Mr. ALVORD would add—"nor more than seventeen times on the same question."

Mr. J. CLARK was of the opinion that the members of the Convention could arrive at the object the gentleman from Berrien [Mr. BRITAIN] has in view by adopting another course.

If members would confine themselves to the rule and speak to the subject, there would be no occasion for this rule, and he would go in favor of rescinding the resolution for calling the previous question. There would be no necessity for that; but when we are permitted to travel everywhere except in the right track, the adoption of some such resolution as the one proposed may be necessary. Sailors are in favor of keeping a direct course, and trim the ship so as not to make lee-way. If gentlemen continue to deviate as much as they have done from the course, I shall lay my compass beside me and be guided by it, and call every member to order who deviates from the rule.

A division of the question was called, and the word "eight" was struck out.

Mr. ROBERTSON moved to insert "two minutes."

Mr. WOODMAN moved the indefinite postponement of the resolution; which prevailed.

Mr. ALVORD—I find a resolution on

the journal which I offered but afterwards withdrew. It was my property, and I know of no reason for the Convention appropriating it.

The CHAIR—Does the gentleman move to strike out?

Mr. WALKER—The resolution is on the journal in accordance with the rule adopted yesterday. If adhered to, it will have a tendency to exclude much matter that is objectionable from being introduced to the Convention.

Mr. MASON—I believe the decision of the chair is, that any thing withdrawn by the mover is not entitled to go on the journal.

Mr. WALKER—Rules are established by practice. Yesterday we laid down a precedent to govern us hereafter.

Mr. J. D. PIERCE—The rule was not changed. Out of courtesy, or for some other reason, the gentleman from Berrien [Mr. BRITAIN] got his resolution on the journal, but I do not understand that the rule was changed.

The CHAIR—The practice has been here when resolutions and motions are withdrawn, not to place them on the journal. Yesterday it was moved to insert matter that would not have gone on the journal according to former practice. It was carried. The Secretary, considering that as an alteration of the rule, has put on the journal all matter that was sent up to the Chair yesterday.

Mr. MASON—Is it the rule now?

The CHAIR—The gentleman from St. Clair may decide for himself, whether the Convention were deciding on the rule generally, or on the particular case.

Mr. MASON—The Convention have not altered the rule, but the Convention permitted it to go on the journal. I find another resolution which ought not to have gone on the journal, as it was immediately withdrawn. It was that the Sergeant-at-arms be instructed to take Mr. F. R. ADAMS into custody.

Mr. GALE—I was opposed to changing the rule, but I begin to be in favor of it. It will show gentlemen the absurdity of taking up the time of the Convention by introducing foolish matter. Let it all go on the journal; the apprehension that it will be published in the journal will restrain members from introducing anything that

may afterwards appear ridiculous or foolish.

Mr. J. D. PIERCE—May we not in this way override and set aside every rule of the Convention?

The question being stated on correcting the journal,

Mr. ALVORD said he had not made a motion to correct the journal; he had merely inquired why the resolution was there. It seemed to him a species of petty larceny.

The consideration of the article entitled "Legislative Department" was then resumed.

The amendment proposed by Mr. Bagg to section 4 being under consideration,

Mr. MASON hoped the amendment of the delegate from Wayne [Mr. Bagg] would be adopted. All agree that it would be impolitic to divide a township in the formation of representative districts. In his opinion it would be equally impolitic to divide a city. The time may soon come when some townships will be entitled to more than one Representative; and there is the same impropriety in dividing them for representative purposes that there is in dividing counties in the formation of Senate districts.

One of the arguments against the present system is that the larger counties dictate to the smaller, and have virtually deprived them of their full share of representation. This has been the case in regard to the county of Wayne. It is true she has permitted the county of St. Clair to have a Senator, but for the last six years she has dictated to that county who that Senator should be, and that, too, against a majority of the delegates representing these counties in the senatorial convention. This is what has created a feeling in the county of St. Clair in favor of single senatorial districts.

Another argument in favor of the single district system is, that it brings the Representative home to the people, that they may know for whom they vote, and not be under the necessity of voting for persons of whose character and capacity they are wholly ignorant. This argument may be a good one, but it is not applicable to townships or cities; for in both cities and townships the people are generally acquainted with each other. There is also a

community of interest, of feeling, and as this interest was one and common, he held it should be indivisible.

Mr. BACKUS said—Mr. President: I should be unwilling to see the amendment adopted, in relation to the city of Detroit, or any other place; or any different rule from that which applies to the other portions of the State. I suppose the sentiment expressed in the Convention is understood. That where there is a sufficient population in a territory to entitle them to a Representative, they shall form a constituency for one Representative; that the Representative shall be brought directly home to those represented. The sentiment is, that single districts shall be enforced. Why should this Convention force on Detroit, or any other place, the double district system?

The argument of the gentleman from St. Clair [Mr. MASON] is of no force. If I understand the principle, I suppose it to be this: Every constituency shall have its own Representative—that the union ticket shall be abolished. I am opposed to the amendment, because I believe the city of Detroit and every other community are desirous of having single districts. So far as the argument goes that their interests are in common, the same may be said of counties.

Mr. MASON—Is not Detroit a township?

Mr. BACKUS—No sir: it is a city, divided into wards; and if the population in the wards is sufficient in number to form a constituency for a Representative, I see no reason why they should not have a Representative. The city of New York is divided into districts. Why should not the rule apply to the people of a city as well as to any other part of the community? Believing the sentiment of the people to be decided, I am opposed to the amendment.

Mr. EATON—There seems to me to be much reason in the proposition. I cannot see why the same rule should not apply to cities as well as to townships. Certainly the inhabitants of a city must be as well acquainted with each other as in a township. The argument that the electors do not know the candidate, will not apply. I believe it is a whig movement. I believe the gentleman from Springwells is the only

one of the delegation, in favor of it. If there is any force in the argument that township lines should not be broken down, it will apply to cities.

Mr. BACKUS—I cannot but regret that that gentleman should indicate political opinions as actuating my conduct on this floor. If they knew my mind as well as their own, they would not judge so. I came here, sir, not to advance the interests of any party, but to do my best to aid in promoting the interests of the State. Intimations like these are discourteous. It has been asserted that such motives actuate me. I disclaim it. I hope I took a seat here from motives higher than any involved in party politics, whether democratic or whig. I represent no party, but the people of the State. If I know their interests, I shall ever be found endeavoring to carry them out; and in carrying them out I deem it as a question settled by the people of the State that each Representative representing them in these halls shall have his own particular representative district.

Mr. ALVORD—I have not the honor to reside in the city of Detroit, therefore I do not wish to oppose the wishes of the delegates from the city. The gentleman who opposes this measure [Mr. BACKUS] does not reside in the city, and I am surprised at the course he takes in opposition to the wishes of the Detroit delegation. I know the people of the city of Detroit are in favor of this measure, and I should be sorry to cast a vote in opposition to their wishes. I suppose the delegation from the city know the views of their constituents, therefore it is my duty to support the measure. I do not know what political bearing it may have.

Mr. BACKUS—I do not care about it.

Mr. ALVORD—The gentleman cares as much as I do. It has been decided that townships shall not be divided. What is Detroit but a township—a municipal corporation? What do they propose to do? They propose, sir, to cut the city in pieces. I ask them to tell me how it can be cut in pieces? Perhaps they will be entitled to five or six Representatives. They cannot do it without dividing wards. The city of Detroit should not be subjected to this rule. If gentlemen will show me how it can be divided without dividing

blocks of buildings, they will throw some light upon it.

Mr. RAYNALE had no doubt the city of Detroit could be divided as well as a county could be divided, as easily as to divide counties into districts. I shall vote for this proposition, because I am opposed to the whole system of single districts; the more I have conferred with the people on the subject, the more I am confirmed in my opinion. Therefore, I can support this proposition in favor of the city of Detroit, because it accords with my feelings on the subject.

Mr. DESNOYERS said—Mr. President: I hope the amendment will prevail. The object of districting the counties is that the people may be acquainted with their Representatives. That object does not exist in the city of Detroit. The people of the city will be acquainted with their Representatives, no matter from what ward they may be taken, or if from one ward. There is no jealousy in the city of Detroit.

The general ticket would prevent much corruption in the city—corruptions that cannot exist in the counties. There are wards largely democratic, and others whig. There are many young men residing in the city with whom it is immaterial in which ward they reside. They can change their residences to accomplish some political purpose, and may easily be induced to do so in times of excitement. I believe (said Mr. D.) a large majority of the citizens, uninfluenced by the politicians, would be in favor of it.

Mr. COMSTOCK was opposed to the amendment. He considered it an entering wedge to breaking up the whole system. If it were claimed for the city of Detroit, the same might be claimed for Adrian, and on the same ground they might claim not to be divided. If he [Mr. C.] entertained the same views as the gentleman from Oakland—if he were in favor of double districts—he might be in favor of it; but, believing as he did, that the policy of having single districts was preferable, he should oppose any attempt to break in upon the system.

Mr. CHURCH—I think there is a plain distinction between the city of Detroit and some townships with which I am acquainted. You may take a township in a coun-

ty, and find its population influenced by the configuration of the county. A county might be divided by separate and distinct interests. Those separated in feelings and interests should have separate representatives. If they are entitled to two representatives, they had better elect their own men. Let the character of a county be what it may, the townships at the extreme end of a county are not so well acquainted with the candidates as to render the nominations always acceptable. But, take the city of Detroit: the population is in a small space; all the individuals of any note are acquainted with each other; their interests and feelings are the same; they move as an unit; they are a mass. Why should not such a body, united as they are in every respect, have joint action on any subject? There is something remarkably distinguishing Detroit from any other part of the State, showing that the single district system is not applicable to that city.

Mr. N. PIERCE had supposed certain principles were established by the Convention; he had supposed single districts, both for Representatives and Senators, was a point settled; that biennial sessions and the pay of members were settled. He did not know but members who had been home had come back instructed differently; but he had supposed that was the opinion of a great majority of those who represent the interests of the State.

Mr. P. said he saw no reason to change the policy, or that the city of Detroit should be governed by any other principle. They are divided into wards. He could see no reason why the interests of the city should be broken down, because a Representative lives on one side of the city, and another on another. How could it separate interests that were similar?

Mr. WALKER was in favor of single districts so far as they could be carried out. He believed townships should not be divided for Representatives, or counties for Senators. What was the argument? It was that large towns overshadowed the small, and that large counties controlled the small. It was for that reason the article was reported in the shape it was, rather than having the smaller counties and towns put under the domination of the larger; but I believe (said Mr. W.) there is evident propriety in keeping a county

undivided for senatorial purposes, and a township for representative purposes.

If there is a unity of interest in a township, is there not the same in a city? How often do they apply to the Legislature to regulate their police and other matters, as a municipal corporation? It is agreed that no township shall be divided. It may happen that a town may be entitled to two Representatives, while, as it now stands, they can only elect in single districts; and while we must have single districts, it cannot be divided. Ann Arbor, at the last census, contained between 4,000 and 5,000 inhabitants. The townships of Adrian and Pontiac, and various others, may be entitled to two Representatives.

I do not (said Mr. W.) advocate it for the benefit of Detroit, but as a general principle that, where a township or city shall be entitled by population to more than one Representative, they should be elected as a unit. In the corporation of the city of Detroit it will be necessary to prevent pipe laying. Many of the citizens have no fixed home in the city, and can move from one place to another. If you divide a city you leave facilities for acts of that kind.

The question was taken on the amendment offered by Mr. BAGG, and carried, as follows:

YEAS—Messrs. W. Adams, Alvord, Arzeno, Axford, Bagg, Barnard, J. Bartow, Beardsley, Beeson, Alvarado Brown, Ammon Brown, Bush, Chapel, Choate, Church, J. Clark, Cornell, Crouse, Danforth, Desnoyers, Dimond, Eastman, Eaton, Gardiner, Gibson, Hanscom, Hart, Hathaway, Kingsley, Lee, Marvin, Mason, McLeod, Mowry, J. D. Pierce, Raynale, Redfield, Robertson, M. Robinson, Rix Robinson, Skinner, Soule, Storey, Sturgis, Sullivan, Town, Van Valkenburgh, Walker, Warden, Whipple, Whittemore, Withereil, Woodman, President—54.

NAYS—Messrs. Anderson, Backus, H. Bartow, Britain, Asahel Brown, Burns, Butterfield, Carr, Chandler, Comstock, Cook, Daniels, Edmunds, Fralick, Gale, Graham, Green, Harvey, Hascall, Hixon, Kinne, Lovell, Moore, Morrison, Mosher, Newberry, O'Brien, Orr, N. Pierce, E. S. Robinson, Tiffany, Wait, Wells, White, Williams, Willard—36.

Mr. LOVELL moved to amend section 13 of the article by striking out in lines 4

and 6 the words "two-thirds," and inserting in lieu thereof "a majority."

Mr. L. said—Mr. President, I am not opposed to a reasonable and proper veto power, but I am opposed, sir, to the power conferred on the Executive by this section. It will be recollected that the committee reported "two-thirds of the members present," but "present" was struck out and "elected" inserted. The committee did not contemplate that to pass a bill over the head of the Executive should require two-thirds of all the members elected. Again, sir, it is almost an anomaly. I can find but one solitary State [Louisiana] in which two-thirds of all the members elected are required. That State stands alone; but, sir, the common law does not prevail there—the code Napoleon prevails there—their situation is peculiar.

I believe, further, a majority of all the members is preferable to such as exists in our present constitution, the constitution of the United States, and the constitution of the State of New York, which require two-thirds of the House present. What constitutes a quorum? The House means a business House; a quorum is a majority. With a House of sixty-six, with a bare quorum present, twenty-three may pass a bill over the head of the Executive; if there should be a full House it would require forty-four. He did not want any such sliding scale.

He considered it anti-democratic to give one man so much power. The amendment he proposed would place it beyond all misconstruction, and it adopts the correct and right principle.

Mr. BUSH said—Mr. President, I am opposed to the amendment of the gentleman from Ionia. The history of the legislation of the State of Michigan fully justifies me in the conclusion to which I have come. It frequently happens that there are local matters brought before the Legislature, which of themselves are opposed to the public policy of the State. They may be sustained by but a very few members; but, sir, in the progress of the business of the session, similar matters will be brought from other locations. Separately they could not have received the sanction of a majority; but the parties are anxious to have them pass, and when none alone could succeed, they concentrate their

efforts, and carry the whole through in a mass. And then each member would go home and be sustained by his constituency and receive the plaudit, "well done good and faithful servant," though he, by entering into a conspiracy, had passed acts contrary to the interests of the State. Then, sir, we see the necessity of the veto. The Governor is the tribune of the people; he is the representative of the whole people, and he cannot give his sanction as the representative of the whole people to acts contrary to their interests. In the judicious exercise of this power he will be sustained by the people.

I ask the gentleman from Ionia [Mr. LOVELL] to put his finger on the first veto message that has not been sanctioned by the people. If they think the Executive wrong, they will elect men to carry out their wishes the next session. It is the operation of a bad law that brings evil; not the neglect of passing a law. No very great inconvenience has resulted from an act not being passed, but much injury has been sustained by the passage of bad laws. The gentleman says this provision is broader than the one in the present constitution. That is true. Two-thirds of the House could pass an act of incorporation. It would be improper for a majority vote to pass it, over the veto of the Governor.

Mr. WALKER—Suppose an act amendatory to a charter should be vetoed by the Governor; how would it look to pass it over the objections of the Governor, by a majority vote?

Mr. LOVELL—How easy it would be to make a law requiring a two-thirds vote an exception.

Mr. MORRISON would call the attention of members to the 27th section. The amendment proposed by the gentleman from Ionia would make the veto of the Governor amount to nothing. It would be a perfect nullity in case of charters of incorporation; because it would only require the same number of votes to pass it over the veto of the Governor which had previously passed it.

Mr. RAYNALE asked the yeas and nays on the amendment, which resulted as follows:

YEAS—Messrs. H. Bartow, Asahel Brown, Carr, Comstock, Edmunds, Green,

Hanscom, Harvey, Lovell, Van Valkenburgh, Williams—11.

NAYS—Messrs. W. Adams, Alvord, Anderson, Arzeno, Axford, Barnard, J. Bartow, Beeson, Britain, Alvarado Brown, Ammon Brown, Bush, Butterfield, Chapel, Choate, Church, J. Clark, Conner, Cook, Cornell, Crary, Danforth, Dimond, Eastman, Eaton, Fralick, Gale, Gardiner, Gibson, Graham, Hascall, Hathaway, Hixon, Kingsley, Kinne, Marvin, Morrison, Mosher, Mowry, Newberry, O'Brien, Orr, J. D. Pierce, N. Pierce, Raynale, Redfield, Robertson, E. S. Robinson, M. Robinson, Rix Robinson, Skinner, Storey, Sturgis, Sullivan, Sutherland, Town, Wait, Walker, Warden, Wells, White, Whipple, Whittemore, Willard, Witherell, Woodman, President—67.

So the amendment did not prevail.

Mr. KINGSLEY moved to reconsider the vote by which the substitute of Mr. McCLELLAND to section 3 was adopted on the 16th instant.

And the motion prevailed.

Mr. KINGSLEY moved that the section (3) be referred to a select committee of nine, but withdrew his motion.

Mr. KINGSLEY moved to amend the substitute of Mr. McCLELLAND by striking out all after the word "enumeration," and inserting the following:

"Provided, That the county of Saginaw, with the territory thereto attached, shall be entitled to one Representative; the county of Tuscola, and the territory thereto attached, one Representative; the county of Sanilac, and the territory thereto attached, one Representative; the counties of Midland, Gratiot and Arenac, with the territory thereto attached, one Representative; the county of Montcalm, with the territory attached thereto, one Representative; and the counties of Newaygo and Oceana, with the territory attached thereto, one Representative; and each county hereafter organized, with such territory as may be attached thereto, shall be entitled to a separate Representative when it shall have attained a population equal to a moiety of the ratio of representation."

Mr. K.—It seemed to be the order of yesterday to reconsider the votes given on propositions the day before. I would have made the motion I now make, yesterday, but the floor was occupied every mo-

ment that the Convention was in session. The part of the section proposed to be stricken out is not founded on just principles. Gentlemen cannot have considered to what consequences it may lead. We are making a constitution to remain as we may make it for many years to come. It should not be amended by another Convention within twenty years. The close followers of the advice of Jefferson will not be in favor of it until thirty years have expired; for that is the time fixed by him for a constitution to remain established. But we will say the constitution we are preparing shall remain twenty years. Now we should look through that space of time, and see if the section as it stands will not work an injury. In about twenty years some now here present will be convened again with others to amend this constitution, and they ought so to frame the present work that it will guard the interests of all parts of the State until that time. Great changes in the amount of population will take place in the State in the next twenty years. What has been the increase in the last twenty years? In the year 1830, there were in the State between twenty-eight and twenty-nine thousand inhabitants. In the year 1840, there were two hundred and twelve thousand; and it is now estimated that the population of the State is four hundred and fifty thousand. Within twenty years the population of the lower peninsula of this State will be more than one million—more than three-fourths of which will be in the south half of that part of the State; and there will be two hundred thousand in the upper peninsula. This Convention has provided that the number of Representatives shall not be less than sixty-four nor more than one hundred; but it is not expected that the House of Representatives will be allowed one hundred members. The gentleman from Oakland [Mr. HANSCOM] the other day proposed to limit the number to eighty, and many supported the proposition. We will say the number shall be eighty. Now, how will the matter stand? There are sixty-seven counties marked out in this part of the State, and territory enough in the other part to make eight more. We have, then, and shall have seventy-five counties. These counties will all be settled within twenty years with at least fifteen hundred inhabi-

tants, if we can judge of the future by the past. In the last twenty years more counties have been settled than remain to be settled. When the east shall swarm again (and that event will take place within the next ten years,) the land in the north part of the State will be taken up. It will be taken up rapidly; county sites will be purchased and established, and soon the requisite number for a Representative (1500) will be in each county. The number of counties to be represented will increase rapidly, and they must be supplied, as the section now stands. How are all these new counties to be supplied? If the number of Representatives are limited to eighty, nearly the whole number will be required to furnish one to each county. To do this, many must be taken from the old counties; their representation will grow less, while their population will be rapidly increasing. The ratio of representation may now be seven thousand; but within twenty years that ratio may and probably will run up to twenty thousand. And while the ratio in the old counties will be continually increasing, it is proposed to continue the ratio for the counties on their first formation at fifteen hundred—a very small number compared with that which will entitle an old settled county to a representation. The injustice which may and probably will grow up under the provision of the article, as it now stands, is very evident. It is possible that in the thirty new counties hereafter to be organized, they may demand thirty Representatives on a population of fifty thousand, when an old county, with a population of fifty thousand, may be entitled to only two Representatives. Nor is this a very extravagant supposition. If the public lands shall be given away, as is proposed, and is very probable, those new counties will all be settled very fast, especially at and around the county seats. All those counties will have some population, though not large. The spirit of speculation will prompt that mode of settling the new counties. That is the way the counties now settled were settled; and they settled for a time very rapidly—making a small population in each county. Indeed, it might happen under the present provisions of this article, that a new county may ask for a Representative here which shall not have a legal voter in the county.

The lands may be given away, and some counties settled sufficiently to entitle them to a Representative by a population, none of which may be voters; and more than that, there may not be a foot of taxable land in the county, as it is proposed not to give deeds until after a residence of two years on the land.

It is said that territory forms a just basis for representation. It does to some extent; but there is no reason why the wilderness, sparsely settled, should have so great an advantage over the more settled part of the country. According to provisions of other parts of the constitution much local legislation is given to the counties. The power of future Legislatures will not extend much beyond the framing of general laws; and the whole people will be interested in the general law, and the principle of taxation. The people and the property will be mostly in the old counties, while the number of their Representatives must be comparatively small. Numbers and property should not be overlooked in establishing a principle of representation.

The truth is, the section under consideration establishes the system of representation on a wrong basis. It allows a new county a Representative when it shall have fifteen hundred inhabitants; and that principle remains fixed until the constitution shall be altered, while the older counties will have less Representatives, though their numbers will increase much faster than in the new counties. The evil will continue to grow worse the longer it exists. While the ratio of representation will run up to twenty thousand in the densely populated counties, still fifteen hundred inhabitants in a new county may be entitled to a Representative.

We can be liberal to the new counties now organized, without doing much injustice to the old counties; because the inequality of representation will be continually growing less. It will be more than a year before there will be any elections under the new constitution and the next apportionment; in the mean time the number of inhabitants will be much increased in the new counties to which we shall give a Representative. If some evil will grow out of the first arrangement, it will be an evil which will soon correct itself.

I beg gentlemen who are so anxious for the protection of the new counties, will

recollect that they are in the south part of the State. We are now seventy miles south of the centre of the State, and there is not a member in this house who belongs north of it. The counties now considered new, will be old and populous within twenty years; and the inhabitants will be as much interested in a just system of representation as the populous counties now are. I will say to the gentleman from Kent, [Mr. CHURCH], by way of prophesy, that the county of Kent in twenty years will have a population of thirty-five thousand, and the city in which he resides will have a population of fifteen thousand. And within that time this county of Ingham will contain forty thousand inhabitants.

The present constitution allowed one Representative to every county organized at the time of the adoption of the constitution, but required that the counties to be organized should have a population equal to the fixed ratio to entitle them to a Representative. I have examined the constitutions of the new States, and none have been more liberal than it is proposed to be by this amendment. Inhabitants of new counties hereafter cannot complain of injustice under this provision. It cannot be expected that we shall establish in this constitution a system of representation wrong in principle, unjust to the older counties, and which will continue to grow more unjust until the constitution shall be amended.

Mr. MASON said it appeared to him that they were making progress backwards. If the question could be taken at once, he should be satisfied. It is as liberal as we want it, but it has been before the Convention before, and rejected. It will meet the approbation of all the new counties, if those which are endeavoring to perfect an organization may by name be entitled to a Representative, and the remainder after they shall have obtained the ratio of population.

Mr. WALKER said he was not satisfied with either the section that had been adopted or the proposition that was proposed by the gentleman from Washtenaw, [Mr. KINGSLEY], to be substituted therefor, if the reconsideration should prevail. But as he was satisfied from the former action of the Convention that the section as it stood was the most liberal that could be obtained for the new counties, and far

more liberal and just than that of the gentleman from Washtenaw, he should vote against the proposition. The section as it now stands, provides that every county which now has, or may hereafter have, an organized county government, and shall contain fifteen hundred inhabitants, shall have a Representative in the lower house to make known their wants, to advocate their interests and protect their rights. This he believed to be dictated alike by good policy in reference to encouraging the early settlement of the rich yet uninhabited districts of the north, and by equal justice to those by whom the new counties are or shall be inhabited. But, what is proposed by the substitute? Why, sir, the member from Washtenaw seeks to strangle this equitable principle as applied to all future counties; and to effect it, he offers to give immediately to one or two counties which have not yet organized, each a member, as a bribe to induce the abandonment of the principle of representation to other counties hereafter to be organized, upon equal terms with those named in his substitute. To effect this purpose he appeals to the cupidity of the old counties, and seeks to array them against the rights of future counties by the bug-bear that there is danger of the new counties obtaining an undue influence and control over the old counties of the State, and warns members that these new counties may obtain an influence dangerous to the interests of the old counties in matters of taxation.

I am glad (said Mr. W.) that the gentleman has alluded to the subject of taxation. It may be that the ghost of the five million loan haunts his imagination, and that of some other members from the (so called) centre and south. He talks of the injustice done to the old counties by the representation given by this section to the north. Sir, in 1863, the principal of the five million loan falls due; and during the existence of the constitution we are now making, both the interest and principal of that loan will have to be met by taxation, unless an extension of time shall be obtained. For whose benefit was this debt created and expended? Almost exclusively for the benefit of those which were then called old counties.

If you will take the trouble to look into

the session laws of 1837, you will find that so jealous were the then new counties of the north and west that they should not receive an equal participation in the benefits to be derived from the expenditure of a loan, for the payment of which all parts of the State would eventually have to be taxed alike, that they could not be induced to vote for creating that loan until the faith of the older, more densely populated, and consequently more powerful sections of the State, was solemnly pledged by the passage of an act marking out an equitable system of expenditure, by which all parts of the State were to participate alike in proportion, not to the amount of population at that time, but to the prospective amount of taxation for its ultimate payment. But, sir, of what avail was the faith thus solemnly pledged, when it came in conflict with the selfish interests and the powers conferred by the more numerous representation of the older and more densely settled portions of the State? It was a mere rope of straw. It was in vain that the Representatives from the then new and weak counties appealed to that plighted faith in behalf of an equal participation. It was in vain that they remonstrated against the exclusive usurpation by the old counties of all the benefits to be derived from the expenditure of a fund for the payment of which the whole State was liable alike.

The gentleman from Washtenaw tells us that the new counties have always had an undue amount of representation in the State Legislature. The gentleman ought to know that this is not the fact, but that they have always been subjected to a much greater amount of taxation than their representation based upon population would accord to them. I would call the attention of the gentleman to the case of Allegan, which came in by sufferance, as it were, or, as some said, by fraud, at the time of the adoption of the first constitution, not having even a moiety of the population entitling her to a Representative, but was allowed a Representative in consequence of having completed her county organization between the session of the former Convention and the ratification of the constitution. And yet, soon after that Convention, in 1838, Allegan paid a State tax of \$3,647 93; while the gentleman's

own county of Washtenaw, which by its population was entitled to seven members of the House, paid a State tax of only \$3,989 03, or but a trifle more than Allegan. Saginaw, too, was only entitled to a member by grace, and yet she paid a State tax of \$2,279, or more than some of the old counties that by their population were entitled to two and three members. The same inequality will be found to exist between the taxation and representation of the new counties, as compared with the old, under this constitution. And yet we are told that the rights of the old counties are in danger.

I would ask the gentleman from Washtenaw if it is not right that the new counties, which have got to be taxed for the payment of a debt in the creation and benefits of which they have not participated, should each have at least one member of the House to guard their interests, and remonstrate against such gross injustice being perpetrated upon them in levying the tax for the payment of the debt created by the loan, as was perpetrated upon the north and west in its distribution and expenditure?

The true policy of the State is not merely to be just, but to be liberal towards those who shall settle the vast tracts of as yet uninhabited lands at the north. By inducing their occupation and improvement, we increase the aggregate valuation of the taxable property in the State, and proportionably diminish the burden of taxation in the payment of the interest and principal of our debt. The fairest portion of our lower peninsula (to say nothing of the mines of wealth in the upper) lies far to the north of where we are now holding this Convention; and such has been our short-sighted policy that we have been expending money to construct roads to carry emigration rapidly across our own State, to Illinois and Wisconsin, instead of opening lines of communication with the unsettled portions within our own borders, and offering other inducements to their occupation and improvement. Until recently so little has been known of the real value and character of the northern interior, that emigrants from the older and more densely populated portions of Michigan have frequently been seen wending their way to Wisconsin and Iowa, to re-locate, uncon-

scious of the fact that we had a far more desirable and wholly unoccupied field for their labors within our own borders.

Mr. HANSCOM proposed as a substitute for the foregoing, to insert after the words "representative purposes," the words "that shall have perfected their county organization by the election of county officers by the first of January, 1851."

Mr. CHURCH moved the previous question, and the same being seconded, the question being "shall the main question be now put?" it was decided in the affirmative.

The question first occurring on the proposition of Mr. HANSCOM, it was disagreed to by the following vote:

YEAS—Messrs. Arzeno, H. Bartow, Beardsley, Chapel, Choate, Danforth, Hanscom, Hathaway, McLeod, President—10.

NAYS—Messrs. Alvord, Anderson, Axford, Backus, Bagg, Barnard, J. Bartow, Beeson, Britain, Alvarado Brown, Ammon Brown Asahel Brown, Burns, Bush, Carr, Chandler, Church, J. Clark, Comstock, Conner, Cook, Cornell, Crary, Crouse, Daniels, Desnoyers, Dimond, Eastman, Eaton, Fralick, Gale, Gardiner, Gibson, Graham, Green, Hart, Harvey, Hascall, Hixon, Kingsley, Kinne, Lee, Lovell, Marvin, Mason, Moore, Mosher, Mowry, O'Brien, Orr, N. Pierce, Raynale, Redfield, E. S. Robinson, M. Robinson, Rix Robinson, Skinner, Soule, Storey, Sturgis, Sullivan, Sutherland, Tiffany, Town, Van Valkenburgh, Wait, Walker, Webster, Wells, White, Whipple, Williams, Willard, Woodman—74.

The amendment of Mr. KINGSLEY was then agreed to, as follows:

YEAS—Messrs. W. Adams, Alvord, Anderson, Axford, Bagg, Barnard, H. Bartow, J. Bartow, Beardsley, Beeson, Alvarado Brown, Ammon Brown, Burns, Bush, Butterfield, Chandler, Church, J. Clark, Comstock, Conner, Cornell, Crary, Crouse, Daniels, Desnoyers, Dimond, Eastman, Eaton, Edmunds, Fralick, Gale, Gardiner, Gibson, Graham, Green, Hart, Harvey, Hascall, Hathaway, Hixon, Kingsley, Lee, Lovell, Mason, Moore, Morrison, Mosher, Mowry, O'Brien, Orr, J. D. Pierce, N. Pierce, Redfield, Robertson, E. S. Robinson, M. Robinson, Rix Robinson, Skinner, Soule, Story, Sturgis, Sullivan, Sutherland,

Tiffany, Town, Van Valkenburgh, Warden, Webster, White, Whipple, Whittemore, Williams, Woodman, President—74.

NAYS—Messrs. Arzeno, Backus, Asahel Brown, Carr, Chapel, Choate, Cook, Hanscom, Kinne, Marvin, Newberry, Raynale, Wait, Walker, Wells, Willard—16.

And the question being on the substitute as amended, the same was adopted.

Mr. CORNELL moved that the vote by which the Convention concurred in the substitute of the committee of the whole for the 28th section, be reconsidered.

Mr. C. said the language of the section, as it now stood, grated harshly in the ears of some of the members of the Convention. He hoped the section would be struck out, that one in more appropriate language might be inserted.

Mr. J. D. PIERCE was apprehensive that the section which had been adopted would be misconstrued by persons out of the State. I have (said Mr. P) the same interest in the reputation and honor of the State as others. I shall impugn the motives of no man. I hope the section will be struck out, and so left.

Mr. J. CLARK would inquire if it should be struck out, would it not leave it as reported by the chairman of the committee on the legislative department?

The CHAIR—If the vote is reconsidered, the question will be on the amendment; if it is not adopted, the question will be on concurring in the amendment made in committee of the whole.

Mr. CRARY—If I could sweep both out, I would go for reconsideration. If we are to have one, I should wish to retain this.

M. WALKER would not vote for any such compromise. He would rather have either than leave the question open to the action of the Legislature.

Mr. ROBERTSON—If that be the intention, I shall go against reconsideration.

Mr. BAGG would vote against reconsideration. He hoped he should always know when he was whipped.

Mr. BUTTERFIELD hoped the motion would prevail, if for nothing else but simply to alter the phraseology, which was certainly objectionable. He had a substitute which he thought would be less objectionable on that account. He should not insist on the original proposition,

though he should prefer it. He hoped it would be reconsidered merely for the purpose of altering the objectionable language. He would read a substitute which he proposed offering:

“The Legislature may authorize the employment of a chaplain for the State prison; but no money shall be drawn from the Treasury for the payment of any other religious services.”

Mr. WITHERELL said he was in favor of leaving it for each House to elect a chaplain; but that is decidedly objectionable to the Convention. It is said that thousands of dollars have been expended. I do not believe (said Mr. W.) that a single cent has been expended. They will use up their time, and they may as well use it up in quarrelling about a chaplain as anything else—better than in making bad laws.

The section as it stands is to me entirely objectionable. The people will think that the Convention entertains an opinion which I believe they do not entertain. That will be obviated by the proposed substitute of the gentleman from Jackson. It asserts a general principle. The people can help themselves; but we provide for religious services for the State prison, where the parties cannot help themselves.

Mr. VAN VALKENBURGH thought the section as it stood placed the Convention before the public in a false light. He would go for reconsideration.

Mr. BACKUS would go for reconsideration, to give gentlemen an opportunity to relent and repent. He believed it was the wish of the people of the State, without reference to sect or party, that the Legislature should acknowledge the existence of a Deity, and His superintending power. In that view he thought they should have a chaplain. But he thought the sentiment of the Convention could not be better expressed than in the language of the section, and he should regret to have a modified expression of the same thing.

Mr. CRARY did not think that those who voted for that proposition had any intention to repent. He had no objection to any other arrangements to carry out the same object. For that reason he should sustain the proposition of the gentleman from Jackson, [Mr. BUTTERFIELD.] Some things are done with reason and some with-

out. My experience (said Mr. C.) is that we have been doing a thing without reason; but there is a reason for having a chaplain in the State prison; there is a reason, because they should have moral and religious instruction, and they cannot have it unless you give them a religious and moral instructor.

We should do more than we have ever done on that subject; but when you come to this House it is a different question. If there is so much piety in this house, we have praying men among ourselves—men competent to pray for us, and pray with us; and if there are no men of that kind, prayer will do no good. It is not so in the State prison.

Mr. C. would remark, that out of fifteen years since the formation of the constitution, only in four years had a chaplain been paid for out of the public treasury. So far has public opinion been carried out for fifteen years.

Mr. WOODMAN desired briefly to express his views. He did not belong to that class of men who made long speeches, but as a representative of Oakland county he wished to state his reasons for his vote. He had voted with the gentleman from Monroe, because there was a feeling in the House that it was unexceptionable on account of the verbiage. A gentleman rises to move a reconsideration without offering a substitute, and throws us upon that broad sea where we have been floundering the last four or five days. I like plain terms. It is plain because it says no money shall be drawn from the Treasury for religious purposes. That is the ground I take; but I do not wish, and I do not believe that there is a man on this floor who wishes to debar any legislative assembly from having their sessions opened with prayer. We only wish to say to the world at large, and to the tax-payers in particular, there shall not be a cent drawn from the treasury on that account; and as to the verbiage, it is right—it does not grate so harshly on the ear.

The gentleman says he wants a chaplain in the State prison. It was amended to meet that. We do not exclude a chaplain from the State prison, and we do not want to exclude a chaplain from the Legislature; but we want an express provision that they shall not pay for such services out of the

treasury; so that there may not be so much religious gambling as there has been heretofore for the office of chaplain. As the language is plain and perspicuous, and conveys what we mean, I hope the subject will not be opened. I cannot promise you that you will not have a long speech from my friend on the left, [Mr. VAN VALKENBURGH,] if you open it, or from the gentleman about to take his seat.

The motion to reconsider did not prevail, as follows:

YEAS—Messrs. Anderson, Backus, H. Bartow, Beardsley, Beeson, Butterfield, Chandler, Church, Comstock, Cook, Cornell, Crary, Danforth, Daniels, Edmunds, Gardiner, Gibson, Graham, Hart, Harvey, Hixon, Lovell, Mason, McLeod, Moore, Morrison, J. D. Pierce, N. Pierce, E. S. Robinson, Rix Robinson, Skinner, Soule, Storey, Sullivan, Tiffany, Van Valkenburgh, Wait, Webster, White, Whipple, Whittemore, Williams, Witherell, President—44.

NAYS—Messrs. W. Adams, Alvord, Arno, Axford, Barnard, Britain, Alvarado Brown, Ammon Brown, Asahel Brown, Burns, Bush, Carr, Chapel, Choate, J. Clark, Conner, Crouse, Desnoyers, Dimond, Eastman, Eaton, Fralick, Gale, Green, Hanscom, Hascall, Hathaway, Kinne, Lee, Marvin, Mosher, Mowry, Newberry, O'Brien, Orr, Raynale, Redfield, Robertson, M. Robinson, Sturgis, Town, Walker, Wells, Willard, Woodman—45.

Mr. COOK moved to amend section 37 by striking out "1851" and inserting "1852."

Mr. C. said if the proposed amendment were adopted, the Legislature would meet in session about three months after the election. By the section as it stands, it would be fifteen months after the election before they met; it would be as if the officers elected this fall would commence their duties in 1852; there would be one session in the first year of the term instead of the last. If an emergency should arise, the Governor could call them together.

Mr. CHURCH observed that the effect would be, to bring the State elections in the same year as the national election. That there would be an election only once in two years. Many are in favor of annual elections; one year for State officers, the next year for national officers. It has been

represented that the judicial election should be kept clear of political associations, and that it should be had at the time of the town meeting. Some doubt the propriety of letting the people remain in a state of complete stagnation for one year; that it would be injurious; and that they should be called out every year.

The amendment was adopted.

On motion of Mr. BARNARD, section 18 was amended as follows:

Line 1, after the word "Speaker," insert the words "during the session of the Legislature."

Also, insert after the word "of," in line 1, the words "postage on."

Also, strike out the word "for," in line 2, and insert the word "on."

Mr. EDMUNDS proposed to amend section 17, by inserting after the word "message," in the 6th line, the following:

"And each session of the Legislature shall terminate on the day on which the members thereof cease to receive their pay from the State Treasury."

Mr. EDMUNDS observed that the article limits the pay to forty days. He was of opinion that when the members of the Legislature ceased to be the servants of the State, they should cease to act as a legislative body. He did not wish them to remain and be paid by corporations or others for their use.

Mr. COOK was opposed to the amendment. He thought they should have authority to set a day or two longer. It may be necessary to do up the business nearly perfected. He would say if his friend from Washtenaw [Mr. EDMUNDS] would go with him on the article on corporations, there need not be any apprehension of corporations getting through any measure obnoxious to the people.

Mr. FRALICK—They are not limited to the time. One gentleman had considered two dollars a day enough for their services. At that rate they might sit sixty days.

Mr. EDMUNDS would not subject them to the suspicion of being paid by private corporations or individuals. The lobbies might wish to pay them five or ten dollars a day for remaining, and the members would be more disposed to favor their objects, whether or not they would be subject to the charge. When the State

ceases to pay, the State should cease to demand their services.

Mr. REDFIELD said if he thought the time was limited, he would not go for it. In New York they receive \$300, but are not limited to time. Evils might arise from limiting the time. He would not object to a certain limit of two or four days.

The amendment was negatived.

Mr. REDFIELD said he was desirous of proposing an amendment to section 7. It seemed to him that to cut off postmasters altogether from eligibility as members to the Legislature, would not be just. He would modify it by saying those receiving a less compensation than \$200 should be eligible.

Mr. J. CLARK—Will the gentleman say \$100?

Mr. REDFIELD had no objection.

Mr. KINGSLEY moved to reconsider the vote by which the Convention concurred in the amendment of the committee of the whole to section 7.

But the motion was lost.

Mr. McLEOD moved that the vote by which the Convention concurred in the amendment made by the committee of the whole to section 38 be reconsidered.

Mr. McLEOD said the amendment which had been adopted would allow the Legislature to publish in the newspapers the laws that take effect in less than ninety days. He had two objections to the section as it stood. The first objection was general and the next special. If it be necessary to have laws it is necessary that they should be put into the hands of the people as soon as possible.

I have (said Mr. McL.) a selfish reason. In the counties of Chippewa and Mackinac we cannot get the laws before the end of July, and sometimes we do not get them before August. We have but one term of the Circuit Court in either Mackinac or Chippewa counties in the year. At our last circuit we were placed in a most ludicrous attitude, as Mr. President and the gentleman from Wayne [Mr. BACKUS] can testify. The court was opened, the docket called. But no trial was ready—and why? Simply because the Legislature had been tampering with our remedies—changing our proceedings, (as we conjectured from the published titles of the session laws;) but not having the laws them-

selves, we were afraid to proceed without them. This was on the third Tuesday of July. We met in the morning—adjourned till afternoon; met in the afternoon—adjourned till morning; and in this humiliating manner played *open and shut* for nearly a week, when we were compelled to adjourn without day, and take ourselves off to the *Saut Ste Marie*, to repeat the farce before a new audience.

Now, sir, to avoid such exhibitions in future, I would have the laws published in every paper of the State—I mean laws of a general, public character, affecting the interests of the entire State. The expense is merely nominal. Say there are forty papers in the State, and you give each paper twenty dollars for publishing all the general laws of each session, the whole amount is but eight hundred dollars—a sum too inconsiderable to be for one moment weighed against the incalculable benefits to be attained by publication. I cannot doubt that a sense of justice on the part of this Convention will accord me this boon for the counties who look to me to represent them. If you withhold it from us—then, sirs, like the ancient Gentiles, “not having a law, we must become a law unto ourselves.” But it is just as a general principle throughout the State, as well as a sectional benefit. Are your laws necessary? Then is it necessary to publish them. Is it necessary to publish them? Then is it equally necessary to put them in the hands of those who are to be affected by them, at the earliest possible opportunity. They should not be locked up in your bindery or folding rooms, nor eaged in your Secretary of State’s office; but so soon as passed, the press should lend them wings to seek every hamlet and cabin in the State.

In my county they become, under your present system of distribution, merely accessories to a spirit of romance. They are of no other value than to remind us of the dark eyed and rosy cheeked daughters of the press, through whose fair fingers they have passed in the process of stitching: a solacing reflection, it is true, but not sufficient to repay us for our privation of the law, even though the white fingered damsels were as fair as the model of my friend from Jackson, [Mr. STOREY,] to wit: the mistress of old King Harold, who was

called Edith, and surnamed the beauty with the swan’s neck.

The motion was carried—yeas 46, nays 37.

The Convention then adjourned.

Afternoon Session.

The Convention was called to order by the PRESIDENT.

Roll called and a quorum being present, the consideration of the article entitled “Legislative Department” was resumed.

Mr. McLEOD moved to strike out section 38, and insert:

“The Legislature shall have no power to establish a State paper, but may provide for the publication of general laws in all the newspapers in the State, at a compensation therefor not exceeding twenty dollars to each newspaper which shall publish the same within forty days after their passage.”

Mr. McL. said the whole object was to leave it within the power of the Legislature—it is not imperative on them. He supposed under that provision they might select such papers as they thought proper. The object is to publish in all, but it is not mandatory. They must get it done for twenty dollars, and it must be done in forty days.

Mr. CHURCH moved to strike out the word “twenty” and insert “ten.”

With this amendment, he (Mr. C.) should be in favor of the proposition. He saw no objection to publishing them in all the papers at that cost. The publisher of every paper within the State who can satisfy the Secretary of State that he has published the laws within forty days after their passage, shall receive the sum of ten dollars. I think (said Mr. C.) that, partly to get the ten dollars, and partly to suit their readers, as the general laws will not be large, all the papers will publish them.

The amendment was adopted.

On motion of Mr. COOK, the words “of each session,” were inserted after laws.

Mr. CHAPEL thought the paper in a county having the largest circulation would be sufficient. There was no use in giving a bonus to every paper.

Mr. ALVORD was in favor of publish-

ing the laws in the papers of the State, but should vote against this proposition, because it would defeat the object for which it was intended. He thought twenty dollars as little as they could be published for.

Mr. CHURCH was sorry that his amendment had brought the resolution into disfavor with its original exponents. He went for the principle more than anything.

Mr. C. moved to reconsider the vote.

Mr. CORNELL asked if fifteen dollars could be inserted; and if so, would that pay for publication?

Mr. STOREY did not think twenty dollars would be sufficient; it might cover the cost of composition—perhaps fifteen dollars would.

The Convention refused to reconsider.

Mr. WILLIAMS offered the following as a substitute for the proposition of Mr. McLEOD:

“The Legislature shall have no power to establish a State paper; but every newspaper in the State which shall publish all the general laws of any session within forty days of their passage, shall be entitled to receive fifteen dollars therefor.”

Mr. WILLIAMS would remark that he had, on a previous occasion, said that every newspaper represents an interest, and any other newspaper fails to reach that interest. The gentleman from Macomb had said that there were three newspapers published in that county; but he would limit the publication of the laws to the paper having the greatest circulation. He [Mr. W.] did not think that the fifteen or twenty thousand persons in Macomb county could be reached by one paper. There are religious newspapers published in the State which have an extensive circulation, and are read with a great deal of avidity. He [Mr. W.] would let every religious newspaper—every temperance paper—every paper of every description—publish the laws. That was the only fair, democratic distribution. If they would publish them, let them be paid for it. Fifteen dollars would not be too much.

Mr. HASCALL submitted the following:

“The Legislature shall have no power to publish a State paper; but it shall provide for the publication of the general laws in one or more newspapers in each county

in the State, having the largest circulation; provided the pay therefor shall not exceed twenty dollars for any one session.

Mr. SUTHERLAND moved to postpone the further consideration of the article till Tuesday next; which was not agreed to.

The substitute offered by Mr. HASCALL was not adopted.

The question being on the adoption of the substitute offered by Mr. WILLIAMS,

Mr. MORRISON observed that the publishers of newspapers would not be compelled to publish the laws. If a specified sum were fixed—say fifteen or twenty dollars—and in any session but two or three general laws were passed, they would all publish them, and some for the pay; but if the laws were of any great extent, they might refuse to publish them. They would be governed by laws regulating their property, and they would consult their own interests. If the laws were but few in any one session, they would publish them; but, should they be of such extent that the proposed sum would not remunerate them for the expense, they would not publish them.

Mr. WILLIAMS said if the time should ever arrive when the acts of the Legislature should not be more than three or four in a session, it would be most fortunate for the State. In such a case the State might well afford to publish them.

The substitute was adopted.

The question recurring on the adoption of the substitute for the section, a division of the question was asked, and the motion to strike out prevailed, as follows:

YEAS—Messrs. Alvord, Backus, H. Bar-tow, Beeson, Britain, Alvarado Brown, Ammon Brown, Burns, Butterfield, Chapel, Church, J. Clark, Conner, Cook, Cornell, Crary, Daniels, Desnoyers, Eastman, Eaton, Edmunds, Fralick, Gardiner, Gibson, Green, Hanscom, Hart, Harvey, Hascall, Kingsley, Lovell, Marvin, Mason, McLeod, Mosher, Mowry, O'Brien, J. D. Pierce, Raynale, Roberts, Robertson, M. Robinson, Rix Robinson, Skinner, Soule, Storey, Sturgis, Sullivan, Town, Van Valkenburgh, Wells, White, Whittemore, Williams, Willard, Witherell—57.

NAYS—Messrs. W. Adams, Anderson, Arzeno, Axford, Bagg, Barnard, Beardsley, Asahel Brown, Bush, Carr, Chandler, Choate, Comstock, Crouse, Danforth, Diamond, Gale, Hathaway, Hixon, Kinne,

Lee, Moore, Morrison, Newberry, Orr, N. Pierce, Redfield, E. S. Robinson, Sutherland, Wait, Walker, Warden, Webster, Whipple, Woodman, President—36.

Mr. WHITE moved to amend the substitute by inserting after "receive," the words "a sum not exceeding," Which was agreed to.

The substitute for the section was then agreed to by the following vote:

YEAS—Messrs. Alvord, Backus, H. Bartow, Beeson, Britain, Alvarado Brown, Ammon Brown, Burns, Bush, Butterfield, Church, J. Clark, Conner, Cook, Cornell, Crary, Crouse, Daniels, Desnoyes, Eastman, Eaton, Edmunds, Fralick, Gardiner, Gibson, Green, Hanscom, Hart, Hascall, Kingsley, Kinne, Lovell, Marvin, Mason, McLeod, Mosher, Mowry, O'Brien, Orr, J. D. Pierce, Raynale, Roberts, Robertson, M. Robinson, Rix Robinson, Skinner, Soule, Storey, Sturgis, Sullivan, Sutherland, Town, Van Valkenburgh, Wells, White, Whipple, Whittemore, Williams, Willard, Witherell—60.

NAYS—Messrs. W. Adams, Anderson, Arzeno, Axford, Bagg, Barnard, Beardsley, Asahel Brown, Carr, Chandler, Chapel, Choate, Comstock, Danforth, Dimond, Gale, Hathaway, Hixon, Lee, Moore, Morrison, Newberry, N. Pierce, Redfield, E. S. Robinson, Wait, Walker, Warden, Webster, Woodman, President—31.

And this section of the article was concurred in.

Mr. RAYNALE moved to amend section 7 by inserting after "officers of the militia," the words "post masters."

The PRESIDENT decided the proposition not in order.

Mr. RAYNALE moved to insert "judges of the supreme court;" which he subsequently withdrew.

Mr. HANSCOM proposed to amend section two by striking out the word "one." Also, strike out section five and insert the following, to stand as the section:

"The number of Senators shall be thirty-two, and the Legislature shall divide the State into districts; but in the formation of such districts no county shall be divided."

Mr. H. considered the proposition he had just offered, better than the original article, which provides absolutely for single districts, and cuts up the counties.

Where a county shall be entitled to more than one Senator, they ought to be allowed to elect by general ticket, in a county.

Mr. COOK raised a point of order, "that the amendment to the section having been reported by a committee of the whole, and concurred in by the Convention, it is not now in order to strike out a portion of it."

The CHAIR decided the proposition not in order.

Mr. HANSCOM moved to reconsider the vote by which the amendment made in committee to section 5 was concurred in; which motion was lost by yeas and nays, as follows:

YEAS—Messrs. Alvord, Arzeno, Beeson, Chapel, Church, J. Clark, Cornell, Crary, Eastman, Gibson, Hanscom, Hart, Marvin, McLeod, Raynale, Robertson, Rix Robinson, Storey, Van Valkenburgh, Whittemore, Woodman, President—22.

NAYS—Messrs. W. Adams, Anderson, Axford, Backus, Bagg, Barnard, H. Bartow, Beardsley, Britain, Alvarado Brown, Ammon Brown, Asahel Brown, Burns, Butterfield, Carr, Chandler, Choate, Comstock, Conner, Cook, Crouse, Danforth, Daniels, Desnoyers, Dimond, Eaton, Edmunds, Fralick, Gale, Graham, Green, Harvey, Hascall, Hathaway, Hixon, Kingsley, Kinne, Lee, Lovell, Mason, Moore, Morrison, Mosher, Mowry, Newberry, Orr, N. Pierce, Redfield, E. S. Robinson, M. Robinson, Skinner, Soule, Sturgis, Sullivan, Sutherland, Tiffany, Town, Wait, Walker, Webster, Wells, White, Williams, Willard—64.

On motion of Mr. CHURCH, section 36 was amended by inserting after the word "meet," the words "at the seat of government;" and by striking out "period," and inserting in its stead the words "place or time."

Mr. SOULE moved the previous question, but withdrew the call.

Mr. BUTTERFIELD moved to re-commit the article to the committee on the legislative department, with instructions to amend section 28 so it will read as follows:

"The Legislature may authorize the employment of a chaplain for the State prison, but no money shall be drawn from the treasury for the payment of any other religious services."

Mr. HIXON moved to amend so as to

read: "The Legislature shall have no power to have any religious services performed in either house."

Mr. HIXON said it had been stated that it cost thirty-six dollars an hour for those services. He wished to save it.

Mr. CHAPEL said he would never vote to deprive members of the Legislature of having prayer, if they choose to pay for it. If they choose to appoint a chaplain, or invite the resident clergy, he would never deprive them of the right.

Mr. HIXON said the gentleman from Macomb [Mr. CHAPEL] had advocated the amendment which had been adopted, on account of expense. He [Mr. H.] was disposed to go farther; he proposed to save time, which would amount to a greater sum than the pay.

Mr. MASON said no doubt the gentleman from Macomb [Mr. CHAPEL] acted from principle—he had shown his hand. If it were to save the State that expense, it was a mere matter of dollars and cents. The principle was the same in the two propositions; one was to save the money, the other the time of the people in hearing the services. To carry out the principle, the gentleman should have the clergymen come before the hour of business.

Mr. CRARY moved to add "in either branch of the Legislature."

Mr. C. said it was a motion to commit. The committee could report back immediately; it would occupy no time if all are agreed who were in favor of the original article. If it were a matter of feeling with any individual, he would go for it. It was time the Convention commenced to harmonize, or they would soon find themselves in as bad a situation as the Ohio Convention, when they adjourned on the fourth of July.

Mr. WOODMAN saw no difference between the two propositions, except in the phraseology; being disposed to harmonize, he should go for it.

Mr. BUTTERFIELD accepted the amendment of Mr. CRARY, and being disposed to harmonize, would move that the committee on phraseology be instructed to strike out the original section and insert the substitute. Which motion prevailed.

Mr. BRITAIN moved to amend section seventeen by striking out in the 8th line thereof the words "and newspapers."

Which did not prevail.

Mr. TIFFANY proposed to add at the end of section 17, "nor to vacate or alter any road laid out by commissioners of highways, or any street in any incorporated city or village, or in any township plat."

Mr. RAYNALE moved to strike out the words "or any street in any incorporated city or village, or in any township plat;" which motion was disagreed to.

And the amendment of Mr. TIFFANY prevailed.

Mr. BUSH moved to adjourn; but the Convention refused to adjourn.

Mr. HANSCOM moved to strike out of section 17, all up to and including the word "thereafter." in the third line, and insert:

"The compensation of members of the Legislature shall never exceed three dollars per day for actual attendance, unless absent by reason of sickness; and after the session of 1851, no compensation shall be allowed after the first sixty days of the session, and not beyond the first ninety days of the session of that year."

A division of the question being had, the motion to strike out was lost.

On motion of Mr. WHITTEMORE, section 17 was amended by inserting in the sixth line, after "receive," the words "no more than."

Mr. WHITE moved to amend section 23 by striking out "object," and inserting in its stead "subject;" which was not agreed to.

Mr. HART moved to adjourn; but the Convention refused to adjourn.

On motion of Mr. McLEOD, the article, as amended, was laid upon the table and ordered printed.

Mr. STOREY moved to adjourn; but the Convention refused to adjourn.

Mr. WHITE moved a call of the House.

Mr. HART moved to adjourn. Ruled out of order.

Mr. WHITE'S move for a call was not sustained.

Mr. J. D. PIERCE moved to adjourn; but the Convention refused to adjourn—yeas 18, nays 56.

Mr. HANSCOM moved that the Convention resolve itself into committee of the whole on the general order; but withdrew the motion.

Mr. J. D. PIERCE moved a call of the House; lost.

On motion of Mr. COOK, the Convention adjourned.

FRIDAY, (34th day,) July 19.

The Convention met pursuant to adjournment and was called to order by the PRESIDENT.

Prayer by the Rev. Mr. TOOKER.

PETITIONS.

By Mr. ROBERTSON: the petition of Mrs. E. A. Bentley and fifty-one other ladies of Mt. Clemens, Macomb county, praying the insertion of a provision in the constitution prohibiting the importation, sale and manufacture of intoxicating liquors from and after the first day of January, 1854; which was read and referred to the select committee on licenses.

By Mr. HASCALL: the petition of N. A. Balch, Gov. Ransom and 120 others, citizens of Kalamazoo county, remonstrating against the establishment of an independent supreme court; which was read and laid on the table.

MOTIONS AND RESOLUTIONS.

On motion of Mr. WHITTEMORE, the article "Elections" was taken from the table.

On motion of Mr. McLEOD, the article "Mode of amending and revising the constitution" was taken from the table.

On motion of Mr. REDFIELD, the article "State Officers" was taken from the table.

On motion of Mr. RIX ROBINSON, the article "County Officers and County Government" was taken from the table.

Mr. HANSCOM—I hold in my hand a series of resolutions relating to a subject of much importance. They are merely resolutions of inquiry. I offer them for the purpose of calling the attention of the Convention to a matter which I think of the highest importance to the people of this State. They are as follows:

Resolved, That the committee on "the Judicial and Governmental policy of the upper peninsula" of the State, be requested to inquire into the expediency and practicability of a separation of said peninsula for purposes of government, and the formation of the upper peninsula into a territo-

rial government, with reference to its ultimate admission into the Union as one of the States: *Provided*, That the assent of the people of this State and of Congress can be obtained.

Resolved, That if in the judgment of said committee such separation is expedient and practicable, some plan be submitted to the Convention that in the opinion of the committee may be best adapted to secure to the inhabitants of said upper peninsula a separate territorial government.

Mr. McLEOD observed that the resolutions did not propose that any definite action should be taken by the Convention on the subject embraced in them. All that was asked was simply that one of the standing committees of the Convention might examine into the subject and report back to this body; and in its judgment it might report against any definite action being taken. He had had very many opportunities of becoming acquainted with the wants and wishes of this upper country. The interests of this people were different from those of the lower peninsula. They were discontented, and desired to place before the Convention the reasons why they were discontented; so that such measures might be taken as would alleviate and remove all causes of complaint and ill feeling. It was a mere matter of inquiry in effect.

Mr. EDMUNDS hoped the resolutions would be laid on the table. For his own part he was hardly prepared to take into consideration a project to dismember a portion of the State, nor were the people either. The Convention was sent here for no such purpose—it was sent here to prepare a constitution for the State of Michigan, and not to change its boundaries in any manner, or dispose of its territory. He hoped that the consideration would not be pressed at present.

Mr. McLEOD remarked that it was but a mere inquiry; or, in other words, it was a formal mode of obtaining a communication of facts which could not otherwise be had.

Mr. WITHERELL moved that the resolutions be laid on the table. Carried.

The Convention then proceeded to the order of the day, and took up the article entitled "Mode of amending and revising the Constitution."

Mr. J. BARTOW offered the following as a substitute for section 1:

"Any amendment or amendments to this constitution may be proposed in the Senate or House of Representatives; and if the same shall be agreed to by two-thirds of the members elected to the two Houses, such proposed amendment or amendments shall be entered on their journals respectively, with the yeas and nays taken thereon; and shall be submitted to the people at such time and in such manner as the Legislature may provide. And if the people shall ratify and approve such amendment or amendments by a majority of the electors qualified to vote for members of the Legislature voting thereon, such amendment or amendments shall become part of this constitution."

This substitute (said Mr. B.) was offered because it was very evident that there was a necessity for such a provision. And it was offered for the further reason that it must be apparent the section presented in the article was drawn with reference to annual sessions of the Legislature. The Convention subsequently adopted the biennial system, and it consequently seemed very expedient to him that some mode other than the one set forth in this article be adopted to amend the constitution. Because, if we pursued the mode pointed out in the original article, six years might elapse—four must—between proposing an amendment to the constitution and carrying it into effect. Four years must elapse, at any rate, and six might; for after the amendment had been voted upon at two sessions of the Legislature, it might require the action of another. He thought that the substitute he had presented would cover the ground. The proposition to amend was to be submitted to one Legislature, and they, by a two-thirds vote, were to ratify it; and then it was to be submitted to the people to be voted upon by them. He conceived that there could not be any question as to the correctness of the principle involved in an amendment to the constitution when it had been voted upon by the Legislature and the people.

Mr. BAGG—I partly agree with the gentleman from Genesee, [Mr. J. BARROW.] I think we ought not to put off the matter for six years. I would suggest to strike out "fifteenth" in the second section, and

insert "tenth." I would prefer, perhaps, to have a majority instead of "two-thirds," considering the innovations that have been made in the organic law here. I want to get at this constitution in ten years again, if I should happen to live.

Mr. McLEOD—The gentleman from Wayne [Mr. BAGG] is riding the wrong horse. He is going off "at half cock." (Laughter.)

Mr. BAGG—By striking it out in advance, it will be just as well.

Mr. McLEOD—As I understand the mode of amendment under the old constitution, it is this: when any amendment was proposed, the Legislature proposing resolved on it, the assent of the majority being required to be given by yeas and nays. The next Legislature took it up and two-thirds of that Legislature had to endorse the proposition of the previous Legislature, and if they did so the question was then submitted to the people. Now, as the gentleman from Genesee says, this first article was drawn in reference to annual sessions. I see a difficulty in regard to the matter since the Convention decided upon biennial sessions. I think that it would be better to adopt the proposition of the gentleman.

Mr. WHITE moved to insert after the word "people," the words "before the next ensuing legislature;" which was not agreed to.

The question then recurring upon Mr. Barrow's substitute, it was adopted.

On motion of Mr. CORNELL, the words "decided by" were stricken out of section 2, line 3, and the words "submitted to" were inserted.

Mr. BAGG moved to amend section 2 by striking out the words "sixty-five" in the first line, "fifteenth year" in the second line, and the word "also" in the same line.

Mr. McLEOD remarked that when the article was being drawn up, he found some members of the committee in favor of ten years, and some favored twenty years. They thought it better, however, to take a medium course and say fifteen years. The committee thought that an appropriate period, and one more adapted to the growing exigencies of the State.

Mr. BAGG—I think ten years would be sufficient; for, within the last ten years,

such has been the rapid improvement in the mechanical arts, the scientific professions, the electric telegraph, together with California coming into the Union, &c., that in my opinion, this period would be the best. And another reason: because these things must necessarily, within the next ten years, revolutionize not only this whole nation, but the entire world. I held that in the next ten years we are going to have an improvement much greater than we have already had in the science of government and the condition of society. I believe that fifteen years is too long a period for us in this Peninsula State to wait to alter our constitution. I believe that we shall have to alter it in five years, in view of the social revolution which is about to take place throughout the civilized world; for in truth I conceive that California with her gold, and situated as she is for commerce, is going to revolutionize the world, in a pecuniary point of view. I do hope we shall not have to wait fifteen years for a revision of our constitution. I think it is known to my democratic friends that we have got things in this instrument that will alter the whole political aspect of this peninsula—that the majority will change;—and I say here, that I believe these things are going to bring our democratic noses to the grind-stone. It is reasonable then that the time at which this instrument is to be revised, should not be protracted to such a length. This is the first time that I have been in a deliberative body, but I have a judgment of my own; and what I have said is the result of my best judgment.

Mr. WALKER—I wish to give another reason for striking out this number, (fifteenth,) but a different one. In the year 1865 there will be no election, for we have settled in the Legislative Article that the first election under this constitution shall be in 1852. Fifteen years from that time there will be no election.

Mr. J. D. PIERCE moved to strike out "five," in the first line, and insert "six;" also strike out "fifteenth," in the second line, and insert "sixteenth" in lieu.

The question was then taken on Mr. BAGG's amendment, and was disagreed to.

The question recurring on Mr. J. D. PIERCE's amendment, the same was adopted.

Mr. RAYNALE offered the following substitute for section 2:

"If at any time two-thirds of the Senate and House of Representatives shall think it necessary to revise or change this entire constitution, they shall recommend to the electors at the next election for members of the Legislature to vote for or against a convention; and if it shall appear that a majority of the electors voting at such election have voted in favor of calling a convention, the Legislature shall at its next session provide by law for calling a Convention to be holden within six months after the passage of such law; and such convention shall consist of a number of members not less than that of both branches of the Legislature."

Mr. ALVORD offered the following as a substitute for the substitute:

"If at any time the Legislature shall think it necessary to amend or revise this constitution, they shall provide by law for a vote of the people for or against a convention, at the next ensuing election for members of the Legislature. In case a majority of the people vote for a convention, said Legislature shall provide for an election of delegates to a convention, to be held within six months after a vote of the people in favor thereof."

Which was not adopted.

The question then recurring upon Mr. RAYNALE's substitute, the same was disagreed to.

The article was then ordered to a third reading.

The Convention then proceeded to the consideration of the article entitled "Elections."

The question being on concurring in the amendments made in committee of the whole,

Mr. BRITAIN observed that there was an important omission which he proposed to remedy by the following, as an amendment to the amendment reported from the committee:

"And for depriving every person who shall make, or become directly or indirectly interested in, any bet or wager depending upon the result of any election, from the right of voting at such election."

Mr. CHAPEL moved to amend Mr. BRITAIN's amendment by adding "and also all persons intoxicated." In his opinion

any man who was drunk was not qualified to vote at an election. He thought it reasonable to exclude from voting any man who was not in his right senses.

Mr. BAGG—I wish to suggest an amendment; to add “and all persons who shall get a man drunk.” (Much laughter.)

Mr. BRITAIN—The subject needs a little explanation, which I did not notice at first. The committee struck out the original section, because it was thought not right to deprive a man forever of the right of voting, by reason of his being interested in a wager on one election. My amendment does not deprive a man forever, and indeed I had expected that it would not meet with any opposition here. The amendment of the gentleman from Maccomb [Mr. CHAPEL] shows me that there will be some opposition to it. Persons who have seen the consequences of betting on elections must see the necessity of my proposition. It is not requisite that I should enter into any detail of the evils resulting from this custom. All I desire is that there should be this wholesome and salutary rule; for it is well known individuals who are estimated as important personages in society, are constantly engaged in this description of betting; and it is not to be supposed that they would be any the less scrupulous in advancing their interests in that respect than in any other.

Mr. KINGSLEY—How are you to know whether a man has bet or not; and if he has voted, what is the penalty?

Mr. BRITAIN—We do not expect to punish a crime which we cannot find out.

Mr. WALKER—I am opposed to this amendment, for this reason: I believe if this provision were adopted, and the Legislature should carry out the principle involved in it, my friend from Berrien, [Mr. BRITAIN,] or other gentlemen, (if they so desired,) would be enabled by making small bets before an election to disarm his political opponents. In regard to the amendment of my colleague, [Mr. CHAPEL,] I do think that instead of keeping the people sober at the polls, it will have the contrary effect. It might enable men to impose a fraud upon voters. I certainly do not wish to have the penalty of betting or being intoxicated a forfeiture of the right of voting.

Mr. J. D. PIERCE inquired what the use of the section was, reading as it did: “laws may be passed, &c.” We might as well say laws may be passed to punish murder. If the section were stricken out it would leave the Legislature in the same position. I would suggest to strike it out.

Mr. WHITTEMORE—If you strike it out you can have my vote.

Mr. WITHERELL was opposed to the amendment, simply because it was impracticable. He had heard many temperance lecturers talk upon the subject, and they entirely differed in opinion as to the time when a man was intoxicated. If we could fix a sliding scale by which we could tell when a man was drunk, and when he was not, he would go for it. He would not be willing to throw into the hands of the canvassers or inspectors of the election the power to say when a man was drunk or when he was not. If this power were put into the hands of some people, there would be among them some who would say a man was drunk if he had drunk anything. Then, on the other hand, there were others who would say a man was not drunk, if he was able to walk up to the polls and put his ticket in the ballot-box. It appeared to him to be a very difficult question to determine correctly.

In regard to betting on elections, he would say that he was in favor of the proposition, for he had seen the evils resulting from this practice. He had seen men win \$1,000 by the result of an election; and in many instances this betting had influenced persons very much in their endeavors to secure the election to their party—and not always perhaps by fair means.

Mr. McLEOD observed that it would be seen every person over 21 years of age would have the right to vote according to the provisions already adopted. The Legislature would consequently have no right to exclude a man unless we gave them the power to do so. So much in reply to the inquiry of the gentleman from Calhoun, [Mr. J. D. PIERCE.]

Mr. BUSH remarked that the amendments proposed were unnecessary. There was an impracticability attendant on the first which he considered manifestly obvious. It would be extremely difficult to secure a board of censors who could accurately determine as to when a man was in-

toxicated, and when he was not. In regard to betting, it was a well settled principle that bets could not be recovered at law. The only obligation to pay a bet was one of honor. In fact, he himself sometimes bet, and did so with a legal gentleman of some note in this State, Mr. B——, of Ypsilanti, (laughter,) but when he lost he invariably paid up. In some cases, however, parties losing bets did not meet the obligation.

Mr. EATON said it was correctly remarked that persons did not always pay the money which they had lost at betting, and it could not be recovered at law. But it was well known that people gave notes payable when such a man was elected, and such notes were collectible; so it had been decided by the legal tribunals. On the whole, he was in favor of the proposition.

Mr. BAGG thought the amendment ought to be adopted. He was a "burnt child." (Laughter.) The trouble was this, there were men of two kinds—the man of honor, and the dishonorable man. He had often won at betting, and had also lost over a thousand dollars by betting, but in every instance he paid up to the last cent. As the question was between honor and dishonor, he was not in favor of having the honorable man brought into difficulty; for in moments of excitement he might bet with dishonorable men and suffer.

Mr. CORNELL hoped that every gentleman would give his "experience." (Laughter.)

Mr. COMSTOCK trusted that the amendment of the gentleman from Berrien [Mr. BRITAIN] would prevail. The object of it, as he understood, was to guard the purity of elections. It was well known that those who bet on elections became pecuniarily interested therein, and used all their influence to make their friends interested in them too. It was also well known that this practice went to impair the purity intended to be guarantied and guarded in our elections. He hoped, then, that the morality and good of the people would induce this Convention to support the amendment to which he had referred.

Mr. CHAPEL said—We had been told time and again that drunkenness was the worst evil in the world—that it did the most injury, and that greater miseries re-

sulted from it than from any other one cause. We were called upon by temperance men to put our mark on it; and we had been admonished that we could not do one thing more calculated to do good to our country than to make drunkenness as disreputable as possible. If a man was to be deprived of his vote for betting a sixpence on an election, it looked strange that temperance men should vote against his amendment to exclude a drunken man from voting—a man who did not know whether he was voting a whig or a democratic ticket. This course was manifestly inconsistent with their professions.

Mr. MASON expressed himself as being in favor of the amendment presented by the gentleman from Macomb, [Mr. CHAPEL.] It was the practice in our courts of justice, when a witness came upon the stand, that the court would not permit him to be sworn, if drunk, or *non compos mentis*. If that were the case, as applicable to the rendition of testimony, was it not equally important for a man when called upon to exercise that great right—the right of suffrage—that he should come up to the polls sober? He had known many voters scared from the polls by men infuriated by liquor. There was no difficulty, in his opinion, in deciding when a man was so intoxicated as to be wholly under the control of the party seeking to obtain his vote; that he was incapable of casting a vote understandingly. It certainly could not be a privilege to a sober man to vote, if his vote could be counteracted by a man who did not know what he was doing, through the influence of intoxicating liquors.

Mr. BRITAIN had leave to withdraw his amendment, as he did not desire to have the amendment of the gentleman from Macomb [Mr. CHAPEL,] injured by the connection.

Mr. MOORE would renew the amendment. He thought it a very wholesome provision. He had supposed at first that the amendment of the gentleman from Macomb was offered for the purpose of killing the former amendment, [Mr. BRITAIN'S;] but he now saw that the Convention was inclined to adopt it. He would be sorry to see any disposition to cut off or keep out a wholesome provision, such as the one proposed, purporting to preserve

the purity of the elective franchise. The elective franchise was one of the most important rights we possessed, and was one which lay at the foundation of our institutions. The section, when first reported by the committee, went a great deal farther than this provision; but the Convention thought the penalty imposed too high, and struck it out. The Convention, however, in his opinion, should not take less high ground in relation to the preservation of the purity of elections than was taken in the State of New York. He thought the amendment should pass, and would renew the motion of the gentleman from Berrien, [Mr. BRITAIN.]

Mr. ROBERTSON differed somewhat in his views in regard to this question with gentlemen who had spoken. He was ready upon every occasion, and in all cases, to uphold the moral purity of the exercise of the elective franchise in this State. He believed that there was another mode by which this evil could be reached—that public sentiment could reach this in the same manner as it did other social or political evils. If he had any choice in this matter, he should prefer the proposition of the gentleman from Macomb, [Mr. CHAPEL,] to any other. He would vote for his proposition. The greater evil of the two, in his opinion, was intoxication. When a man came to the polls in a state of intoxication, he had lost all that principle which ought to govern him in casting his vote at an election. In regard to ascertaining when a man would come within the rule there was some difficulty. He did not see how a medium was to be arrived at; or how the inspectors could form their judgment, whether a man presenting his vote was sufficiently sober as to vote understandingly, or intoxicated so as to be incapacitated. The difficulty would be in drawing this nice line of demarkation.

He had seen men intoxicated, not by whiskey. He had seen both whigs and democrats go to the polls intoxicated, not by the operation of rum, but by a spirit of fanaticism—of extreme party feeling. So, intoxication did not arise from the use of alcohol merely. In regard to betting, a case like this might readily occur: some young men might be talking about an election shortly to come off, and bet perhaps some cigars or a supper upon the result of

it; a person might overhear them, and go to the polls and have their votes rejected—on what ground? On the ground that they were interested in the result of the election, viz: they had bet a few cigars, or an oyster supper!

There are (said Mr. R.) far greater sins than that of betting at elections; yet which are unnoticed by legislative or constitutional provision. There are very many greater instances of moral turpitude at present existing, than this one here complained of. But merely because the constitution of the State of New York contains a similar provision to the one now proposed, for that reason we are to insert it here! Betting is wrong, I admit; but I conceive it should not cut us off from voting for the candidate of our choice. It never induced improper effects that I know of. I have before now bet a dozen oysters on an election, and I am certain nothing evil resulted from it. I certainly did not bribe men to vote on my side, because I had a bet of some oysters depending. (Laughter.)

Mr. ALVORD—Will the gentleman amend his proposition by inserting “and manufacturers and venders of intoxicating liquors?”

Mr. CHAPEL—I accept of the suggestion, and amend my proposition accordingly.

Mr. BRITAIN contended that the experience of every gentleman would demonstrate that there was much of evil resulting from the practice of betting upon elections. He believed that men used this in the same manner as they would any other method for the advancement of their own interests. In regard to a bet for cigars, &c., &c., which was adverted to by the gentleman from Macomb, [Mr. ROBERTSON,] he would ask what gave rise to the practice? Because persons in honorable stations in life had gone into this practice of betting, and made it fashionable; instead of being treated with reprehension, it obtained commendation, and so recommended itself to the young.

If a brand be put upon this custom by constitutional provision, it is to be presumed that every man will know the effect of making bets upon an election.

Mr. BUSH inquired how the proposed provision could reach a man who voted at

9 o'clock, A. M., and then made bets upon the result of the election during the remainder of the day.

Mr. BRITAIN did not desire, as he before remarked, to punish crimes which we could not discover. This provision would prevent that open, brow-beating betting that went on for a month previous to an election, and which did much in influencing the result. The amount of betting carried on after the polls were opened was very small in comparison with that which took place previously.

Mr. WITHERELL observed that when a man approached the polls, it was for the purpose, of course, of casting his vote. Who, then, was to determine as to his sobriety—the board of inspectors? Certainly; but were they to do it by a personal examination? Without doubt that could not be carried into effect in many cases. Or must it be done by receiving proof? Then, if so, it must be upon the oath of the man himself; and the drunker he was, the harder would he swear; and the probability was that it would be as at present—whoever swore would be admitted to vote. In truth, he saw no practicable method of determining this matter, and would therefore vote against the proposition.

In regard to betting, he entertained a different opinion. If a man were challenged, he was asked if he were interested in the result of the election by any bet or wager; and if he answered in the affirmative, he excluded himself on his own oath. However, on the other hand, if he swore in the negative, yet had made a bet, he committed a crime punishable by law. Not so with the drunken man, who might swear he was sober—his reason was overthrown, and he did not know what he was doing. As to the moral effect of such a provision, he thought it would prevent open betting on elections. And he would remark, in relation to what had been observed by the gentleman from Ingham, [Mr. BUSH,] as to a man making bets after he had voted, that it struck him the people would see there was a trap laid for them by a man pursuing such a course. He was in favor of this amendment, and hoped the gentleman would withdraw his modification, relative to "persons manufacturing and vending spirituous liquors."

Mr. RAYNALE was not in favor of making the elective franchise a weapon to secure the punishment of crimes. It seemed to him as improper to tamper with the rights of the people upon this highly important subject. He would vote against the amendment and offer the following at the proper time: "Laws may be passed, excluding from the right of suffrage all persons not of sound mind, or otherwise disqualified by a disordered understanding." That was sufficient on the subject, in his judgment. He hoped that the amendments would be voted down, and the elective franchise left free.

Mr. BAGG suggested it would be better that the gentleman from Macomb, [Mr. CHAPEL,] withdraw his proposition, so the other amendment could be voted upon directly.

Mr. CHAPEL remarked that he knew instances where a man (if the amendment of Mr. BRITAIN were adopted) could disfranchise a hundred men, by betting to the amount of a hundred dollars; say a dollar or so with each. How easy was it now for a man to go into the city of Detroit and bet in that manner, and then challenge the votes of the men with whom he had bet. It was an open door for fraud, and he hoped the Convention would vote the whole thing down.

Mr. BRITAIN said that his proposition gave the Legislature the right to make such provision as they might consider necessary. The amendment of the gentleman from Macomb was offered for the purpose of killing the proposition made by himself, [Mr. B.] He hoped the Convention would indulge him with the ayes and noes.

Mr. VAN VALKENBURG thought that when any gentleman made a proposition, he ought to have credit for sincerity of purpose, particularly when it had been supported in the eloquent manner in which the proposition of the gentleman from Macomb had. If liquor stole away men's brains, then they certainly were disqualified from voting. He thought that the provision as it now stood covered the whole ground. No one could contend that a man who was drunk was qualified to discharge the ordinary duties of life, still less, however, to perform the important duties of the elective franchise. But he was in favor of

both amendments, and should like to see them prevail.

Mr. BACKUS expressed himself as being in favor of both propositions, and would most cheerfully vote for them.

Mr. CHAPEL said he was obliged to his friend from Wayne, [Mr. ALVORD,] for the suggestion he had given him. Time and again it was said here "that a manufacturer of ardent spirits was worse than a murderer." Then in order that gentlemen be consistent, why not exclude from voting the man whom they think "worse than a murderer?"

Mr. WALKER—Cannot the purity of elections be preserved without enforcing this doctrine of "an eye for an eye and a tooth for a tooth?" If a man have forfeited a fine of five dollars, he has a right to a trial by jury. Well, then, on this important question, when a man is declared to have forfeited his right to vote, who is to decide it—a jury? No: but a partizan board; and we have seen the time when they were intoxicated; not perhaps by liquor, but by extreme party spirit. I must protest against this depriving any man of his right to vote upon the determination of a tribunal of that character. You say a man shall have a right to a trial by jury before he shall forfeit one dollar; and yet you regard this right of suffrage as a more trivial right! You take it away without a man having the same right to enforce his privilege that he would have to defend himself from the imposition of a fine of five dollars! It is within the power of the Legislature, and it would be both right and moral that they should do so—impose heavy penalties upon the sale of ardent spirits on the day of election—on the sale of or giving it to electors. And it would be equally proper to provide for penalties in regard to bets. Let the Legislature say that men making bets upon the result of an election shall forfeit three or four times the amount of the bet. Such would be the proper mode, in my opinion, to preserve the purity of elections; and not to leave it in the power of a partizan board to wrench this great right from an elector, at their own option. I have seen partizan boards determine upon men's rights; and I have seen men deprive others of the right of suffrage, acting as they did under an ex-

citement induced by the intensity of their party predilections.

Mr. WHIPPLE demanded a division of the question; but by request withdrew the same.

Mr. BACKUS renewed the call.

Mr. WOODMAN would like to have the amendment modified so as to read: "intoxicated at the time of offering his vote."

Mr. BAGG—I should desire to have the proposition modified somewhat. It does not define whether the person is to be intoxicated with rum, strychnine, opium or quinine. (Laughter.) I am serious in this matter; and I do not wish to give my nay against this proposition, without presenting my reasons. It is foggy with regard to the drug that produces the "intoxication;" and it is foggy in regard to the tribunal which is to decide as to a man's sobriety or "intoxication." For, I have seen the board of canvassers drunker than the "outsiders," (laughter;) and that is surely not the tribunal adapted to test the "intoxication" produced by alcohol, strychnine, opium, or any other exciting agent. For these reasons, I shall give my vote against the proposition.

The question recurring upon the first part of the amendment presented by the gentleman from Macomb, [Mr. CHAPEL,] a division having been demanded, the yeas and nays were ordered on the same, and resulted as follows:

YEAS—Messrs. Backus, H. Bartow, Butterfield, Chapel, Church, J. Clark, Eaton, Gale, Gardiner, Hanscom, Hart, Lovell, Mason, McLeod, Mowry, Newberry, Orr, N. Pierce, Robertson, E. S. Robinson, Rix Robinson, Storey, Sturgis, Van Valkenburgh, Webster, White, Whipple, Whittemore, Willard—29.

NAYS—Messrs. W. Adams, Anderson, Arzeno, Bagg, Barnard, J. Bartow, Beardsley, Beeson, Britain, Ammon Brown, Asahel Brown, Burns, Bush, Carr, Chandler, Choate, Comstock, Conner, Cook, Cornell, Crary, Daniels, Desnoyers, Dimond, Eastman, Edmunds, Fralick, Gibson, Graham, Green, Harvey, Hascall, Hathaway, Hixon, Kingsley, Lee, Marvin, Moore, Morrison, Mosher, O'Brien, Raynale, Redfield, M. Robinson, Skinner, Soule, Sullivan, Tiffany, Town, Wait, Walker, Warden, Wells,

Williams, Witherell, Woodman, President—57.

So the question was not sustained.

The question then turned upon the adoption of the second part of the amendment, which was lost.

Mr. BUSH moved to amend the amendment offered by the gentleman from St. Joseph, [Mr. MOORE,] by adding thereto the following: "And any person who shall be a candidate for an office of profit at such election."

The gentleman from Berrien, [Mr. BRITAIN,] in introducing the amendment which he afterwards withdrew, based his argument upon the fact that men who were interested in the result of an election, would make extraordinary efforts to secure the election of that party in which they felt an interest. He would ask, then, would not a candidate for an important office make as extraordinary efforts? Would not the result of an election be as deeply interesting to him as to the man who may have made some small bet upon the contest? If we disfranchised many voters by the principle sought to be established, for merely betting; it was certainly no more than fair that it should include those who were most directly interested in the election. If there be evils existing in relation to those matters, pass laws which would correct them; but do not, in an endeavor to rectify an abuse, strike at the very foundation of our elective franchise. For, while gentlemen were striving to remedy one evil, they were doing another almost irremediable. We might place statute upon statute, but unless our laws were sanctioned by public opinion, they proved a mere dead letter; and they never would be made use of but by the vicious, to pervert them from the purposes for which they were originally designed. That was the experience of this State, and of every other community; there was no such thing as enforcing a law which was not sustained by the popular will. He believed the consequences of engrafting the proposition of the gentleman from St. Joseph, [Mr. MOORE,] would be disastrous, and would have a tendency to vitiate the elective franchise; it could not promote its purity.

Mr. HANSCOM—I would go for the proposition of the gentleman if he will in-

sert before the word "candidate" the word "stump." (Laughter.)

After some few observations from Messrs. BRITAIN and CHAPEL, Mr. BUSH had leave to withdraw his amendment.

Mr. CHURCH proposed to amend the pending amendment by adding "nor any person holding an office of profit." The argument of the gentleman from Ingham [Mr. BUSH] had additional force in his [Mr. C.'s] opinion. If the candidates for office be interested in these matters, and likely to exercise an influence in determining the result, those in office, whose bread and butter was concerned, were much more likely to exercise a pernicious influence.

Mr. HASCALL moved the previous question; which was not sustained.

The question then turning upon the amendment of the gentleman from Kent, [Mr. CHURCH,] it was not sustained.

The question then recurred upon the amendment presented by the gentleman from St. Joseph, [Mr. MOORE,] and the yeas and nays being ordered thereon, the same resulted as follows:

YEAS—Messrs. W. Adams, Anderson, Backus, Barnard, H. Bartow, J. Bartow, Beardsley, Beeson, Britain, Ammon Brown, Asahel Brown, Burns, Butterfield, Carr, Chandler, Comstock, Conner, Cook, Daniels, Eastman, Edmunds, Fralick, Gale, Gardiner, Gibson, Green, Hart, Harvey, Hascall, Kingsley, Lovell, McLeod, Moore, Mowry, Orr, N. Pierce, Redfield, E. S. Robinson, M. Robinson, Skinner, Sullivan, Tiffany, Town, Van Valkenburgh, Warden, White, Whipple, Whittemore, Williams, Willard, Witherell, Woodman, President—53.

NAYS—Messrs. Arzeno, Axford, Bush, Chapel, Choate, Church, J. Clark, Cornell, Crary, Danforth, Dimond, Eaton, Graham, Hanscom, Hathaway, Hixon, Lee, Marvin, Mason, Morrison, Mosher, Newberry, O'Brien, Raynale, Robertson, Rix Robinson, Soule, Storey, Wait, Walker, Wells—31.

So the amendment was adopted.

Mr. BUSH moved a call of the Convention, which was not ordered.

Mr. B. then moved a reconsideration of the vote by which the last amendment (Mr. MOORE's) had been adopted, and said: I am perfectly willing, sir, upon all occasions, to accede when I am well whip-

ped; but, when there are thirty members absent, and about twenty at present in the village, and the Convention refuses to order a call of the house upon a question which involves an important principle, I deem it my duty to make one or two remarks. I believe that the vote recently taken should not be sustained by this Convention. I believe that while gentlemen who advocated and voted for the amendment have been anxious, and sincerely desirous to promote the public good, yet they have by their votes on this occasion done the very opposite. I believe also, sir, that that very vote will have in its effects a tendency to corrupt the elections of this country, and place in the hands of one, or a few men, the entire control of the result of an election in a township. They can do it, sir. One man, for instance, may make it his business to go about and make bets with forty, fifty, or a hundred of his political opponents, then he may himself forego the privilege of voting, and carefully watch the ballot box throughout the day and challenge the vote of every man with whom he has made a bet. It is manifest that the effect of this provision will be most pernicious and destructive to the purity of our elections.

I hope the Convention will allow us to have a full vote on this question, and for that purpose I ask that the last vote may be reconsidered. If the Convention decide upon retaining this provision in the constitution, I shall say no more.

Mr. MOORE did not desire to make any argument upon the question. He would only call attention to the manner in which this measure was opposed. It should strike the common sense of gentlemen that the minds of members had been entirely made up before the vote was taken—a majority of the Convention voted in favor of the proposition, and that he thought was conclusive.

Mr. CHURCH moved to lay the motion to reconsider on the table.

Mr. WILLARD moved a call of the House, which did not prevail.

Mr. BUSH then withdrew his motion to reconsider.

The question being on concurring in the amendment made in committee of the whole as amended,

Mr. RAYNALE moved to strike out and substitute therefor the following:

“Laws may be passed excluding from the right of suffrage all persons not of sound mind, or otherwise disqualified by a disordered understanding.”

Mr. CRARY was opposed to the amendment to the amendment. He was opposed also to the whole section, even as amended by the Convention, with all due deference to that body. The substitute just presented, proposed, as he took it, to exclude from voting persons *non compos mentis*, and not possessed of an ordinary understanding. There were provisions in the constitutions of some States going to that extent. But such a provision gave too much power to the persons inspecting the ballot box; it devolved upon them the province of deciding whether a man presenting himself as an elector, was of sound mind, or not of sound mind. Now a man might be of sound mind in very many particulars, and be insane in others. He might be, for instance, in but one particular demented, and perfectly sane upon all other matters, and entirely capable of exercising his right of voting with discrimination. But, if we adopted the provision which was proposed, we gave the persons inspecting the ballot box the power to reject a man because of his unsoundness of mind; in fact we would give them a power more despotic than was ever established in any country, and a power that would be exercised to the detriment of the public weal. There were but very few *non compos* or disqualified by understanding amongst us; and if they be permitted to vote, scarcely any injury would accrue to the community therefrom. The cases to which the proposition had reference were so very few and rare that the subject hardly demanded the attention of the Convention.

In relation to betting at elections, he would here remark that this subject had not occupied attention at the time when the first Convention was held. Since that period, however, the matter had excited much public notice; and in the State of N. Y. it had called for the interposition of the fundamental law, and power was given to the Legislature of that State to pass laws to restrict betting. The same power was proposed to be given here.

He was opposed entirely to the original amendment made by the committee of the whole, because it did not comport with the

spirit of the age; it did not come up to the character of this constitution, if there had been any advance upon the past; or to any advance which might be claimed for the future. The amendment said in effect that a man who had been guilty of a burglary, or a larceny, because he had been guilty of that act, and had been punished by the law of the land, must be forever disqualified from being one of our citizens! By such a proposition in the fundamental law, we asserted that those individuals who had been sent to the penitentiary, and there reformed and made good citizens, should have a constitutional provision hanging over them during the remainder of their life, however well they might conduct themselves—however good citizens of the community they might become, yet we were to affix this stigma upon them, and say that they should not have the privilege of the elective franchise extended to them. Such was what was demanded of the Convention by this provision. But we should not allow any such provision to go out to the world with the impress of our approbation upon it. It might have answered a hundred years ago, but it was utterly inconsistent with the sentiment of the present day.

He did not desire by any means to leave in the hands of the Legislature any such power as the one here proposed to be given. He did not desire it to appear that this Convention had not come up to the spirit of the age in relation to reform in punishment; or, rather that they should go back upon past ages in this respect. The day once was when it was "an eye for an eye and a tooth for a tooth." But the object of punishment now was to reform; and having effected that, the individual was to stand in the community in the same rank as any other member of it. He was not to have the finger of scorn perpetually pointed at him by the law of the community, but most especially not by the fundamental law of the State. It was true that such was proposed to be done by the Legislature; but here was the fundamental law (if the provision were adopted) expressly giving them the power so to act. A man, suppose, was punished by imprisonment in the penitentiary; yet here you would give the Legislature the power to disfranchise him, though he might have

become reformed, and one of the most moral and worthy men in the community. Because a man committed an offence once, did it follow that he must be bad forever—that after he had undergone the reformatory discipline of the prison, and had been discharged, that he must still be vicious? If so, let him be shut up in the penitentiary forever; because the provision here made was based upon the assumption that if a man had once committed an offence, therefore, he should be excluded from the ballot box! He did not purpose, however, by his vote to give the Legislature the power at any time to pass any such law.

In regard to the subject of betting there was no doubt that a great deal of evil had arisen from the practice; and, if there could be any one thing done to prevent it, it ought to be done. He thought there was a strong disposition in the Convention to endeavor to effect that object by a constitutional provision. If they were so great as to require legislation on the subject, let the Convention take action upon it, leaving out of the article the other matters to which he had referred. He believed from present indications, the majority would be in favor of some provision upon the subject; but whether it would be a wise course or not, he was unable to determine. There were laws upon the statute books at present, making individuals betting subject to punishment; however, they might not be sufficiently stringent. But he certainly hoped that the Convention would not engraft into the constitution a principle which he deemed entirely incompatible with the spirit of the age.

Mr. BAGG, in order to meet some of the views expressed by the gentleman from Calhoun, [Mr. CRARY,] suggested a modification, to read in this form: "All persons who have been or may be convicted of robbery, &c., &c., and not pardoned." There had been many persons convicted of crime, and convicted wrongfully, and within a few days after their conviction we had the members of the court, the bar, and the house-holders in the vicinity signing petitions for their pardon.

Mr. CRARY—That does not meet the objection. A man, for instance, is found guilty of the crime of robbery; the law says, in the first place, he shall be punished; and then, in order to reform him, he

goes into prison; and from the reform wrought upon him, every one is willing to take him by the hand and continue the work of reformation begun upon him. The difficulty would not be removed by the proposition of the gentleman, [Mr. BAGG,] in saying he is pardoned. A man may have committed a great crime, and be pardoned. He may have influential friends; and a great variety of causes may be brought to bear upon the Executive in effecting his pardon, yet notwithstanding, be a very wicked individual. If a man go into prison it is for the purpose of being reformed; why is he let out? Because the law supposes that he is reformed. And, even though he be reformed, you say he shall not go to the ballot box, for the reason that, in some unguarded moment, he has committed what is considered an infamous offence, and he is to live a disgraced life throughout the remainder of his days. Now, that is not the object of the reformers of this age. If we stand here as reformers, we certainly will allow no such provision to go into our constitution. It has been in the constitutions of some of the States, and may be put into the constitutions of others; but it ought not to be in the constitution of any State in this Union. In by-gone days it may have suited well enough, because then the reasons for which men went to prison were different from what they are now. If a man went to prison then, it was the end of him. Once sent there, he was considered to have no longer any life or character. It is not so now, however, and I hope the fundamental law of our State will not establish such a provision.

Mr. WALKER observed that in his section of the country there was an individual who had been in the State prison for an infamous crime, but was now considered to be a good and effective citizen. If this provision were adopted, this party would be prevented from voting. He had been reformed by going to prison, and it was but just that he should have the privilege of exercising the right of the elective franchise. He did not suppose it was in the power of the governor to pardon any man after he had served out the term of his imprisonment.

Mr. BAGG—I know several persons in Detroit who have been convicted of crimes

in the State of New York. They are now good citizens, and are no doubt reformed of their sins, and vote at our elections. They are apparently as good citizens as are amongst us. They do not belong to the same party to which I have the honor to belong; but this provision would disfranchise them.

Mr. BRITAIN moved to amend the section as amended, by striking out all after the words "laws may be passed" to the word "for."

Mr. HANSCOM had not designed saying anything upon the subject. He was opposed to the proposition of the gentleman from Berrien, [Mr. BRITAIN.] If the section were to be adopted, it should be adopted in *toto*, or rejected in *toto*. For himself, he was entirely opposed to the whole section. He was opposed to have a solitary provision in the constitution leaving to the Legislature the power to determine upon that most important right of the people, the elective franchise.

What was proposed here? To prohibit from voting a man who may have made a bet of sixpence on an election, and those who have been convicted and punished for crime. If the Convention intended to make the elective franchise a basis of punishment for crimes, let them say so. But he thought that subject more properly belonged to the province of which his friend from Wayne [Mr. WITHERELL] was chairman, the committee on crimes and punishments. He was for leaving the Legislature powerless for inhibiting any man from the exercise of the right of suffrage. As was said by the gentleman from Calhoun, [Mr. CARY,] "for what do we send a man to the penitentiary?" That he may serve the term of imprisonment which the law imposed upon him for the commission of his offence; and also that he may be reformed, and made, as it were, a new man. Were we, then, to make in addition to that a punishment that would be perpetual—that would last for his entire life? It was wrong in principle, and wrong in fact. There was no reason to suppose that an individual who underwent imprisonment may not be made a good and moral citizen by the operation of the reformatory training which had been adopted in our prison. Why withdraw from the individual one of the great incitements to make him a

worthy citizen and an honorable and respectable member of society? The entire theory was wrong. He was decidedly in favor of holding forth every inducement to such persons, that by good conduct and behavior they may become respectable citizens, and enjoy all the privileges to which the other members of the community are entitled.

Mr. DANFORTH moved to adjourn. The Convention refused to adjourn.

Mr. CORNELL was opposed to the whole proposition for the reason that taking it in all its bearings, it would work more evil than good. Besides, the Legislature had the power to pass laws regulating the purity of elections without this provision.

Mr. CRARY asked the yeas and nays on the amendment of Mr. BRITAIN, and the same were ordered and taken with the following result:

YEAS—Messrs. Arzeno, Bagg, Barnard, H. Bartow, Britain, Ammon Brown, Burns, Chapel, Choate, Church, J. Clark, Conner, Crary, Danforth, Eaton, Edmunds, Fralick, Graham, Green, Hanscom, Hathaway, Hixon, Lovell, Marvin, Mason, McLeod, Morrison, Mosher, Newberry, Orr, O'Brien, J. D. Pierce, Raynale, Robertson, E. S. Robinson, Rix Robinson, Soule, Storey, Sturgis, Walker, Warden, Wells, Willard—43.

NAYS—Messrs. W. Adams, Backus, J. Bartow, Beeson, Alvarado Brown, Asahel Brown, Bush, Butterfield, Carr, Chandler, Comstock, Cook, Cornell, Daniels, Desnoyers, Eastman, Gardiner, Gibson, Hart, Harvey, Hascall, Kingsley, Kinne, Moore, N. Pierce, Redfield, M. Robinson, Skinner, Sullivan, Tiffany, Town, Van Valkenburgh, Wait, Webster, White, Whipple, Whittemore, Williams, Witherell, Woodman, President—41.

So the amendment was agreed to.

The question then recurred upon the proposition of the gentleman from Oakland, [Mr. RAYNALE.]

Mr. RAYNALE—My object in offering this substitute for the original section, is simply to give the Legislature the power to disqualify from voting persons who are insane. It is true the grievance is not very great, but still I think the Legislature should have the power to adopt measures by which the insanity of persons could be

ascertained, and, if insane, deprived of the right of voting. I understand that heretofore there has been no law on the subject; and insane persons have been in the habit of going to the polls and voting. There have been several instances of the kind. That is all the restriction I wish to place on the elective franchise, after the first section of the article, and with that view I have offered this amendment.

I cannot see the necessity of making the elective franchise a weapon of punishment for crime. If this thing of betting tend to injure the community, the Legislature is at liberty to pass laws for the punishment of it, other than making the right of suffrage an instrument of punishment. I would much rather not have any provision on the subject, and would even rather have the inconvenience of insane persons voting, than such a provision.

On motion, the Convention adjourned.

Afternoon Session.

The Convention was called to order by the PRESIDENT.

The roll was called, and a quorum of members being in attendance,

On motion of Mr. HANSCOM,

Resolved, That the use of this House be permitted to the Rev. J. A. Baughman on Saturday evening, at half-past seven o'clock, July 20th, for the purpose of delivering an address upon the subject of temperance.

The Convention resumed the consideration of the article entitled "Elections."

The question being upon Mr. RAYNALE's substitute for section six as amended in committee of the whole, a division of the question was had,

And the motion to strike out the substitute proposed by the committee prevailed.

Mr. RAYNALE's proposition to insert was not agreed to.

Mr. CORNELL submitted the following as a substitute:

"Laws may be passed to preserve the purity of elections and guard against abuses of the elective franchise," which was adopted.

The question being upon concurring in the amendment of the committee as amended, a division of the question was had,

And the Convention concurred in striking out the original section, by yeas and nays, as follows:

YEAS—Messrs. Arzeno, H. Bartow, Beardsley, Britain, Alvarado Brown, Ammon Brown, Burns, Carr, Chapel, Church, Conner, Cook, Cornell, Danforth, Desnoyers, Dimond, Edmunds, Fralick, Gale, Gibson, Graham, Green, Hanscom, Hathaway, Hixon, Lee, Lovell, Marvin, McLeod, Morrison, Mosher, Newberry, O'Brien, Orr, J. D. Pierce, Raynale, Redfield, Robertson, E. S. Robinson, M. Robinson, Rix Robinson, Skinner, Soule Storey, Sturgis, Sullivan, Town, Wait, Walker, Warden, Wells, Whipple, Willard, Woodman—54.

NAYS—Messrs. W. Adams, Axford, Backus, J. Bartow, Beeson, Asahel Brown, Chandler, Choate, Comstock, Daniels, Eastman, Gardiner, Hart, Harvey, Hascall, Kingsley, Mowry, N. Pierce, Sutherland, Tiffany, Van Valkenburgh, Webster, White, Whittemore, Williams, Witherell, President—27.

And the substitute of Mr. CORNELL was inserted.

The question being on concurring with the committee in striking out section 8,

Mr. VAN VALKENBURGH moved to amend the original section by adding to it the words "and also for preventing men from voting when they are intoxicated." He offered this modified amendment hoping it would meet the views of gentlemen as expressed this morning. His colleague [Mr. RAYNALE] said he was opposed to tampering with the elective franchise. It appeared to him [Mr. V.] that there was no more certain mode under the canopy of heaven of doing so, than by allowing a man to vote when intoxicated. The same gentleman presented the amendment excluding insane men from voting. For his part, he knew of no class of men more insane than men under the influence of liquor.

The amendment was not agreed to.

The question then occurring being upon agreeing in the amendment made in committee of the whole, the same was put, and sustained.

Mr. MASON offered the following substitute for section 8:

"Laws shall be made for preventing the administration of oaths by boards of elections to persons intoxicated."

He saw most certainly a very great impropriety in administering an oath, either in a court of justice or by a board of election inspectors, to an intoxicated man. Courts of justice never did; they would not administer an oath to a man who was in such a state of intoxication as not to be able to appreciate the effect of an oath. The present constitution provided that every white inhabitant (a citizen) must be a voter; and all a party had to do was merely to take the oath, and by constitutional provision his vote could not be rejected. It seemed to him that there ought to be a judge of a man's capability of knowing the nature of that oath; for it was not reasonable to suppose that a man intoxicated would be as conscious of the obligations of that oath, as if he were sober. In his opinion, those judges should have the discretion to reject the vote of a man in such a condition, and see that the man go away and get sober before he be permitted to vote. Those living on the frontier had felt the effects of this practice very much, especially in the spring, when the license question came up. Many persons would come over from Canada, hold up their hands and take the oath; they then would go away, and no one knew where they came from or where they went.

Mr. RAYNALE moved to amend by adding the following: "And all elections shall be opened by a temperance lecture." (Loud laughter.)

Mr. MASON—If the gentleman offered this as an insult to the Convention, or merely to make the proposition which I offered odious, it may have that effect. It seems to me, however, to be better to allow the Convention to act directly on this important question. I will ask for the yeas and nays on my proposition.

Mr. HANSCOM hoped the proposition of his colleague would be withdrawn. It was entirely unnecessary to fool away the time in this way. He also hoped the proposition of the gentleman from St. Clair [Mr. MASON] would be withdrawn. We might as well say that a farmer should have the right to sell wheat, as to say that an oath should not be administered to a drunken man. The Legislature had full power in regard to these matters. He hoped that these senseless propositions would be withdrawn.

Mr. RAYNALE withdrew his amendment.

Mr. MASON thought the Legislature had no authority to pass laws rejecting an oath, unless given them by the constitution. Nor could they do anything like rejecting an oath, because, this article provided that all white citizens shall have a right to vote. The board of inspectors could not act as judges of a man's intoxication, and the Legislature could not give them the power to do so, for the constitution made the man a voter.

A MEMBER—What has the administration of an oath in a court of justice to do with the elective franchise?

Mr. MASON resumed. He did not say that it had anything to do with it; but his proposition would do no harm in the constitution. He knew it was the custom again and again (and the experience of gentlemen would bear him out,) to administer the oath to individuals who, at the time, knew nothing about an oath, or the obligations they assumed.

Mr. BACKUS coincided in the views of the last speaker. He thought the gentleman's argument unanswerable.

Mr. WOODMAN was of opinion that if the constituents of the members of this Convention could look in upon the course of procedure followed here, they would conclude that it would have been better to have established a woman's school at the start. It appeared by the action of gentlemen here, that something of that kind was necessary. He was totally opposed to going into matters of detail.

The question was then taken upon the proposition of the gentleman from St. Clair, [Mr. Mason;] and the yeas and nays being ordered and had thereon, the same resulted as follows:

YEAS—Messrs. Backus, Burns, Chapel, J. Clark, Comstock, Dimond, Eastman, Eaton, Gardiner, Green, Hart, Mason, McLeod, Orr, N. Pierce, Rix Robinson, Sturgis, Van Valkenburgh, Williams, Witherell—20.

NAYS—Messrs. W. Adams, Arzeno, Axford, Bagg, H. Bartow, J. Bartow, Beardsley, Beeson, Britain, Alvarado Brown, Ammon Brown, Asahel Brown, Butterfield, Carr, Chandler, Choate, Church, Conner, Cook, Cornell, Danforth, Daniels, Desnoyers, Edmunds, Fralick, Gib-

son, Graham, Hanscom, Hascall, Hathaway, Kingsley, Lee, Lovell, Mosher, Mowry, Newberry, O'Brien, Raynale, Redfield, Roberts, Robertson, E. S. Robinson, M. Robinson, Skinner, Soule, Storey, Sullivan, Sutherland, Tiffany, Town, Walker, Warden, Webster, Wells, White, Whipple, Whittemore, Willard, Woodman, President—60.

The amendments to the resolution accompanying the article were concurred in.

Mr. STOREY moved to amend the article by striking out the last clause of section one.

Mr. ROBERTSON proposed the following substitute for the entire section:

"In all elections, every white male citizen above the age of twenty-one years, every white male inhabitant of the age aforesaid who was permitted to vote under the provisions of the previous constitution of this State, every civilized male inhabitant of Indian descent of the age aforesaid, not a member of any tribe, who shall be a native of the United States, and every white male inhabitant of the age aforesaid, who shall have been a resident of this State on the first day of January, A. D. 1849, shall be entitled to vote at such elections: provided, that the last mentioned persons shall first declare their intentions to become citizens of the United States, pursuant to the laws thereof; but no such citizen or inhabitant shall be entitled to vote at any such election, unless he shall have resided in this State for six months next preceding such election, nor in any township or ward unless he is an actual resident thereof."

The question being upon the amendment of the gentleman from Jackson, [Mr. Storey,] the same was put and lost.

Mr. N. PIERCE moved to strike out all after the word "every," in the first line of the section, and insert the following: "Male person above the age of twenty-one years having resided in this State for six months next and immediately preceding any election, shall be entitled to vote at such election; and every such voter shall be eligible to any office in the gift of the people of this State. But no such citizen or person shall be entitled to vote except in the township or ward of which he is an actual resident, and in which he has resided for ten days next preceding the day of election."

I see, sir, (said Mr. P.) that there is a

great deal of feeling on this subject. This proposition will open the door wide on the elective rights. It will bring in all the men that are in this State, black, white, yellow and all.

It will also say to the north, south, east and west, come in and vote with us; and will give us all equal rights. It'll be in every respect advantageous to fill the measure of elective rights to the *end*. I can't see why gentlemen should be so tenacious about white people—to amend this article over and over again, and then to strike it all out. I can't see how they could make it any broader, unless they said every person wearing pantaloons shall vote. We've always said to Europe "come in." Now I say come in Europe, Asia, Africa, America, South America, and all the islands all round the globe. Let them all come in, and make officers of them. They're good enough to vote at an election, and are consequently good enough to come in and be elected officers.

Mr. MORRISON moved to amend the original section by adding after "aforesaid," in the first line thereof, as follows:

"And white male persons of foreign birth, of the age aforesaid, who have resided in the United States two years, and shall have declared their intention to become citizens, (conformable to the laws of the United States on the subject of naturalization,) at least one year previous to an election, and every civilized male person of Indian blood of the age aforesaid, not a member of any tribe."

Mr. HANSCOM thought this subject had been very fully discussed in committee of the whole. It seemed to him we had talked about this matter sufficiently, and any number of propositions had been made. He would therefore move the previous question.

Mr. N. PIERCE rose to inquire if his proposition were not the first in order.

The PRESIDENT replied that it was not, as there was a substitute to the section pending.

Mr. RAYNALE hoped the call for the previous question would not be pressed. This was a very important and interesting question, and he hoped that debate would not be cut off. It was true it had been discussed to some extent in committee of the whole, but the committee did not ap-

pear to have settled on any definite plan. Since the committee sat, he understood there had been considerable change of opinion, and sentiment had become more liberal upon the subject.

The call for the previous question was withdrawn.

The question on the adoption of the amendment presented by the gentleman from Calhoun, [Mr. MORRISON,] was put and lost.

Mr. N. PIERCE'S proposition being under consideration, on motion of Mr. WOODMAN, the word "male" was stricken out.

The question then recurring upon the substitute presented by the gentleman from Macomb, [Mr. ROBERTSON,]

Mr. ROBERTSON said, in offering this substitute, I believe it expresses the wishes of a majority of the people upon this subject. The provision in relation to white male citizens of the United States is the same with that, relative to white male inhabitants who are allowed to vote under the present constitution. In addition to that, there is a provision in relation to civilized Indians, not members of any tribe, and who should certainly be permitted to vote. Then there is another provision, in effect, that all white male inhabitants who "shall have been residents on the 1st of January, 1859, shall be voters, provided that they have first declared their intention to become citizens of the United States according to the laws thereof." In regard to the third provision, I think opinion will be unanimous.

It seems to me that no good objection could be urged against admitting to the polls those aliens who have come to this country to make it their home, if they be qualified as specified in the substitute. They are men identified with the interests of the State and country, and I may say, in nearly every instance, never expect to make any other place their home. They ought, I do believe, to have the right of suffrage. There are thousands of them too, coming into this State yearly, to make it their home. They are a well conducted, orderly class of men—many of them educated, and bringing money with them into our State. They are men who enquire into all the important national questions with just as much interest as the natural born citi-

zens of the United States. My experience on many subjects does not extend to any length, but it does extend somewhat upon this. I find that this class of people have as much interest in all that relates to the greatness and prosperity of this country as those living here all their lives. Coming from a monarchical country, and learning from their youth upwards that this was "the home of the free," they are naturally inclined to inquire into and examine our mode of government; in fact, they have a more immediate interest in inquiring into it than have natural born citizens. Therefore, I am of opinion that if these strangers, or rather aliens, be permitted to vote, after the time specified in the amendment, no possible injury can accrue, but much good may result. Thus, they will become more attached to the country, and will be not only amongst us, but *of us*. It is proposed that they should have resided in the State on the first of January, 1849. They will, then, when this constitution goes into operation, have been two years in the State.

When this State was first organized, liberality on the score of voting was extended to all living here at the time. And, I would ask, can any gentleman put his finger at a single man who has proved unworthy of that liberality? I say that gentlemen cannot point out a single evil resulting from that generosity. I believe that many of those who participated in that generosity have become some of our very best citizens. They have nearly all become citizens under the U. S. constitution. They have filled offices of trust and honor under this our State constitution. And, as no evil has resulted from that bestowal of this privilege, it is not unreasonable to suppose that no evil will result from the further extension of a like liberality.

Mr. McLEOD moved to amend the original section by inserting after the word "citizen," in first line, the words "and civilized persons of Indian descent not members of any tribe."

The amendment was adopted.

Mr. WILLIAMS moved to add to the original section as follows:

"The Legislature may at any time extend by law the right of suffrage to persons not herein enumerated, subject, however, to the approval of a majority of all the votes cast at a general election."

Mr. CRARY—Does the gentleman intend by this amendment to dispense with the resolution reported by the committee of the whole?

Mr. WILLIAMS replied in the negative.

The yeas and nays being ordered on Mr. WILLIAMS' amendment, were had, and resulted as follows:

YEAS—Messrs. Barnard, H. Bartow, Chandler, Comstock, Edmunds, Gale, Green, Hart, Hixon, Mason, Orr, N. Pierce, Sturgis, Wait, Walker, Warden, Wells, Williams—18.

NAYS—Messrs. W. Adams, Anderson, Arzeno, Axford, Backus, Bagg, J. Bartow, Beardsley, Beeson, Britain, Alvarado Brown, Ammon Brown, Asahel Brown, Burns, Butterfield, Carr, Chapel, Choate, Church, J. Clark, Conner, Cook, Cornell, Crary, Danforth, Desnoyers, Eastman, Eaton, Fralick, Gardiner, Gibson, Graham, Hanscom, Hascall, Hathaway, Kingsley, Lee, Marvin, Mosher, Mowry, Newberry, O'Brien, J. D. Pierce, Raynale, Roberts, Robertson, E. S. Robinson, M. Robinson, Rix Robinson, Skinner, Soule, Storey, Sullivan, Tiffany, Town, VanValkenburgh, Webster, White, Whipple, Whittemore, Willard, Woodman, President—63.

Mr. WALKER moved to amend the section as follows:

After the word "citizen," in first line, insert "or inhabitant;" also strike out all after the word "election," in second line, to and including the word "aforesaid" in fifth line.

Mr. HANSCOM moved the previous question on the article, without the resolution. The call was sustained, and the main question ordered to be now put.

The same recurring first upon the amendment proposed by Mr. WALKER, it was lost by the following vote:

YEAS—Messrs. Arzeno, Bagg, Barnard, Beardsley, Asahel Brown, Carr, Chapel, Choate, Crary, Eaton, Edmunds, Gale, Gibson, Graham, Hathaway, Hixon, Marvin, Morrison, Orr, J. D. Pierce, N. Pierce, Raynale, Robertson, E. S. Robinson, Soule, Sturgis, Sutherland, Wait, Walker, Warden, Williams, Willard—32.

NAYS—Messrs. W. Adams, Anderson, Axford, Backus, H. Bartow, J. Bartow, Beeson, Britain, Alvarado Brown, Burns,

Butterfield, Chandler, Church, J. Clark, Comstock, Conner, Cook, Cornell, Danforth, Daniels, Desnoyers, Eastman, Fralick, Green, Hanscom, Harvey, Hascall, Kingsley, Kinne, Lovell, McLeod, Mosher, Newberry, O'Brien, Redfield, Roberts, M. Robinson, Rix Robinson, Skinner, Storey, Sullivan, Tiffany, Town, Van Valkenburgh, Webster, Wells, White, Whipple, Whittemore, Woodman, President—51.

The substitute of Mr. ROBERTSON for the section as amended, was then disagreed to by the following vote:

YEAS—Messrs. Anderson, Arzeno, Bagg, Barnard, Beardsley, Ammon Brown, Asahel Brown, Chapel, Cook, Crary, Desnoyers, Eaton, Edmunds, Gardiner, Gibson, Graham, Hanscom, Hart, Hathaway, Hixon, Kingsley, Marvin, McLeod, Morrison, Orr, J. D. Pierce, N. Pierce, Raynale, Roberts, Robertson, E. S. Robinson, Skinner, Soule, Storey, Sturgis, Sutherland, Wait, Walker, Warden, Willard, President—41.

NAYS—Messrs. W. Adams, Axford, Backus, H. Bartow, J. Bartow, Beeson, Britain, Alvarado Brown, Burns, Butterfield, Carr, Chandler, Choate, J. Clark, Comstock, Conner, Cornell, Danforth, Daniels, Dimond, Eastman, Fralick, Gale, Green, Harvey, Hascall, Kinne, Lovell, Moore, Mosher, Newberry, O'Brien, Redfield, M. Robinson, Rix Robinson, Sullivan, Tiffany, Town, Van Valkenburgh, Webster, Wells, White, Whipple, Whittemore, Williams, Woodman—47.

The question being, "shall the article entitled 'Elections' be now read a third time?" the yeas and nays were ordered and had with the following result:

YEAS—Messrs. W. Adams, H. Bartow, J. Bartow, Beeson, Britain, Ammon Brown, Asahel Brown, Butterfield, Carr, Chandler, Church, J. Clark, Conner, Cook, Crary, Danforth, Daniels, Desnoyers, Eastman, Fralick, Gale, Graham, Hascall, Hathaway, Kingsley, Kinne, Lovell, Mosher, Mowry, Newberry, O'Brien, N. Pierce, Redfield, Roberts, M. Robinson, Rix Robinson, Soule, Sullivan, Town, Wait, Wells, White, Whipple, Whittemore, Willard—45.

NAYS—Messrs. Anderson, Arzeno, Backus, Bagg, Barnard, Beardsley, Alvarado Brown, Burns, Chapel, Choate, Comstock, Cornell, Dimond, Eaton, Edmunds, Gardiner, Gibson, Green, Hanscom, Hart,

Harvey, Hixon, Marvin, McLeod, Moore, Morrison, Orr, J. D. Pierce, Raynale, Robertson, E. S. Robinson, Skinner, Storey, Sturgis, Sutherland, Tiffany, Van Valkenburgh, Walker, Warden, Webster, Williams, Woodman, President—31.

So the article was ordered to a third reading.

Mr. STOREY moved to strike out the resolution accompanying the article.

On motion of Mr. CRARY, the resolution was amended as follows:

Insert in line 4, before "color," the word "every;" and strike out "citizen" in same line, and insert "inhabitant." Strike out all after "the," in 5th line, up to and including "1851," in the 6th line, and insert "the rights and privileges of an elector." Also, strike out of the 17th line words "after the first day of January, 1851."

On motion of Mr. CHURCH, the resolution was further amended by striking out in the 15th and 16th lines the words "for and against the said separate amendment."

The question being upon the motion to strike out,

Mr. STOREY—I have simply to say that I believe no man here supposes that if this subject be given to the people to vote upon, it will be supported. There was not a single petition sent up here asking that the right of suffrage be extended to the colored race. I see no necessity whatever for this resolution.

Mr. WOODMAN—I think the gentleman is a little mistaken. My constituents ask for a resolution of this kind, and they would be very sorry to see it struck out. Let us submit it to the people to say whether or not the right of suffrage shall be extended to the colored population. I will vote against the resolution myself, when it goes go before the people. But I wish it to be laid before the people, so that they may determine the matter as they in their wisdom see best.

Mr. BAGG was in favor of the motion to strike out the resolution. He could see no good reason for retaining it. It was well known to all, that but a very small portion of the legal voters of the State would vote for negro suffrage; why then put them to the trouble, tax and excitement of a distinct ballot box? Why row one way and look another? Why not dispose of this

subject before us in the same manner we do all others? Negro suffrage could never obtain in this State. Seven-eighths of the legal voters, or more, would be against trying the experiment. He would not for a moment pander to the sable subject. There was sufficient political excitement in this State without this chimerical proposition. Notwithstanding the acknowledgment of all this, it was said, and, he doubted not, believed by some of his political friends and others, that "but let the people vote upon this subject direct in this manner," and this matter would forever be put to rest. He could not agree with his friends on this subject. The people want to exercise themselves on no such thing. They will be satisfied with our direct action here, without troubling them. He had but one way of doing business, to wit—an open-handed, straight forward, up and down course. He would at once put a quietus upon this chimerical resolution, and then let the subject quietly sleep the sleep of death.

The yeas and nays being ordered on the motion to strike out, were had as follows:

YEAS—Messrs. Arzeno, Bagge, Beeson, Burns, Butterfield, Chapel, Crary, Graham, Hanscom, Marvin, McLeod, Mowry, Newberry, O'Brien, Raynale, Roberts, E. S. Robinson, M. Robinson, Storey, Sullivan, Whipple—21.

NAYS—Messrs. W. Adams, Backus, H. Bartow, Britain, Alvarado Brown, Ammon Brown, Asahel Brown, Carr, Chandler, Choate, Church, Comstock, Conner, Cook, Cornell, Danforth, Daniels, Desnoyers, Dimond, Eastman, Eaton, Edmunds, Fralick, Gardiner, Green, Hart, Harvey, Hascall, Hathaway, Hixon, Kingsley, Kinne, Lovell, Morrison, Mosher, Orr, J. D. Pierce, N. Pierce, Redfield, Robertson, Rix Robinson, Skinner, Soule, Sutherland, Tiffany, Town, Van Valkenburgh, Wait, Walker, Warden, Webster, Wells, White, Whittemore, Williams, Willard, Witherell, Woodan, President—59.

Mr. VAN VALKENBURGH moved to adjourn, but the Convention refused to adjourn.

Mr. COOK moved the previous question, but the call was not sustained.

On motion of Mr. DESNOYERS, the Convention adjourned.

SATURDAY, (35th day,) July 20.

The Convention was called to order by the PRESIDENT.

Prayer by the Rev. Mr. BAUGHMAN.

PETITIONS.

Mr. STOREY presented the petition of Ichabod Cole, Henry Foster and 292 other citizens of Jackson county, praying the insertion of a clause in the constitution prohibiting the employment of convicts in the State Prison at those branches of mechanical labor which interfere with mechanical trades in this State. Referred to the committee on miscellaneous provisions.

The PRESIDENT presented the petition of J. M. Cooper and 156 other citizens of Detroit, praying for an insertion of a provision in the constitution prohibiting the Legislature from passing any laws authorizing the sale of intoxicating liquors as a beverage; also the petition of Francis Raymond and 32 others; also, Wm. A. Butler and 14 others, citizens of Detroit, praying for like objects; also, the petitions of Eliza N. Whipple and 79 others; Mrs. H. T. Backus and 203 other ladies; Mrs. W. Cole and 333 other ladies; and Mrs. D. Knight and 80 other ladies, of the city of Detroit, praying for a like prohibition. Referred to the select committee on licenses.

MOTIONS AND RESOLUTIONS.

Mr. WITHERELL offered the following:

Resolved, That the President of this Convention shall be entitled to receive the sum of four dollars a day, and no more, for his services during the remainder of the session.

Which, on motion of Mr. HANSCOM was indefinitely postponed by the following vote:

YEAS—Messrs. W. Adams, Alvord, Anderson, Arzeno, Axford, Backus, Bagge, Barnard, H. Bartow, J. Bartow, Beardsley, Beeson, Alvarado Brown, Ammon Brown, Asahel Brown, Burns, Carr, Chandler, Chapel, Choate, Church, J. Clark, Cook, Cornell, Daniels, Desnoyers, Dimond, Eastman, Eaton, Fralick, Gale, Gardiner, Gibson, Graham, Green, Hanscom, Hart, Harvey, Hascall, Hathaway, Kingsley, Kinne, Lovell, Marvin, McLeod, Moore, Morrison, Mosher, Mowry, O'Brien, Orr, J. D. Pierce, Raynale, Robertson, E. S. Robinson, M. Robinson, Rix Robinson, Skinner, Soule, Storey, Tiffany, Town,

Van Valkenburgh, Warden, Webster, Wells, White, Whittemore, Williams, Willard, Woodman—71.

NAYS—Messrs. Butterfield, Comstock, Crary, Danforth, Edmunds, Hixon, Mason, Newberry, N. Pierce, Wait, Witherell—11.

Mr. CHURCH gave notice that he would on Monday next introduce a resolution requiring the committee on finance and taxation to report.

Mr. CRARY gave notice that he would on Monday next, move to take up the Judicial Article and the resolution relating thereto.

Mr. KINGSLEY moved to reconsider the vote by which the article "Elections" was yesterday ordered to a third reading.

Mr. J. BARTOW—We seem to be endeavoring to undo each day's proceedings by the action of the next. We are apparently laboring in vain; and I hope that there is consistency enough in this Convention to avoid this vacillating course. I trust that we shall not have to go back and travel over the same ground again. If we do, the whole subject will be again discussed, and Monday will unravel the work of Saturday.

Mr. KINGSLEY—I ask that the matter may be recommitted.

Mr. HANSCOM—I should be unwilling to be thrown again upon the sea of discussion; but still, I should like to hear every proposition. There is but one section about which there is any disagreement. I have taken one proposition from Mr. ROBERTSON to throw an additional guard, not however altering the principle. I move to commit with the following proposition, to stand as section one. The committee can report back to us forthwith; and if gentlemen have other propositions they can offer each one as a substitute.

"In all elections, every white male citizen above the age of twenty-one years, every white male inhabitant of the age aforesaid, who was permitted to vote under the provisions of the previous constitution of this State, every civilized male inhabitant of Indian descent of the age aforesaid not a member of any tribe, who shall be a native of the United States, and every white male inhabitant of the age aforesaid who shall have been a resident of this State on the first day of January, A. D. 1850, shall

be entitled to vote at such elections: *Provided*, That the last mentioned persons shall have declared their intentions to become citizens of the United States, pursuant to the laws thereof, at least six months next preceding such election; but no such citizen or inhabitant shall be entitled to vote at any such election unless he shall have resided in this State for six months next preceding such election, nor in any township or ward unless he is an actual resident thereof, and shall have therein resided for ten days next preceding such election."

Mr. WILLIAMS—I don't think it is the thing for this gentleman to give the Convention his dictum—to say what this Convention shall do or shall not do. He has given us his proposition as a formula prescribed.

Mr. HANSCOM—You can offer your proposition as a substitute.

Mr. WILLIAMS—I have a proposition which I want to stand upon its own merits.

Mr. S. CLARK—I wish to raise a question of order. Is the bill ordered to a third reading?

The CHAIR—The bill is ordered to a third reading. There is now a motion to reconsider.

Mr. HANSCOM—By the 11th rule it is a privileged question.

Mr. J. BARTOW raised a question of order, that "the article having been ordered to a third reading under a demand for the previous question, a motion to recommit with instructions, could not be entertained."

The CHAIR thinks it is in order to commit.

Mr. J. BARTOW—I take an appeal from the Chair; and I want the yeas and nays.

Mr. HANSCOM—The 11th rule provides that a motion to adjourn, lay upon the table, postpone, indefinitely postpone, commit or amend, shall be privileged questions.

Mr. J. BARTOW—Under the rule yesterday, which cut off all debate upon the motion of the very gentleman himself, all amendments except what were pending at the time the previous question was sprung, were cut off. It takes the previous question upon the whole article; it puts it out of our power to recommit with in-

structions; it is now not debateable. The 11th rule has no application whatever, and I insist upon it that I am correct.

Mr. COOK hoped the gentleman from Genesee would withdraw his appeal. This is a privileged motion, and takes precedence of other motions that are not privileged. I hope he will withdraw his appeal.

Mr. J. BARTOW—I will withdraw it. I have no personal feelings about the matter.

Mr. WALKER moved to amend the instructions by striking out "on the first day of January, A. D. 1849," and inserting, "at the time of the adoption of this constitution."

Mr. RAYNALE offered the following substitute for the section:

"In all elections, every white male citizen, and every civilized male inhabitant of Indian descent, not a member of any tribe, above the age of twenty-one years, being a native of the United States of America, having resided in this State six months next preceding an election, shall be entitled to vote at such election; and every white male inhabitant of the age aforesaid, having resided in this State two years in all, and having filed his intentions to become a citizen of the United States, according to the laws of the United States on the subject of naturalization, shall be entitled to vote at all elections; provided such inhabitants shall have resided in this State for the six months next preceding such election; but no such citizen or inhabitant shall be entitled to vote except in the township or ward where he shall have actually resided for the ten days next preceding such election."

Mr. J. CLARK—It appears to me that this question is involving vital principles, and it is almost impossible to carry the different propositions in our minds all at once; at least I can safely say that I cannot. I therefore should be glad to have this laid upon the table, as I am anxious that this Convention should give a full, fair vote. I therefore move that this whole subject be laid upon the table, so that we can have every proposition fully, fairly, and separately before us.

The CHAIR thinks that the motion to recommit cannot be laid upon the table. The motion to reconsider can be laid upon

the table. The first question to be taken is upon the proposition of the gentleman from Macomb.

Mr. WOODMAN—I am opposed to the proposition of the gentleman from Oakland, and hope that it will not receive the sanction of the Convention. I hope it will be reconsidered for a number of considerations. I understand the resolutions go with them.

Mr. HANSCOM—No sir, the resolutions do not go with them.

Mr. WOODMAN—I want this passed by a more respectable majority than we had yesterday. There are various propositions and amendments to be made, and this motion to recommit shuts them nearly all out. I hope that it will not prevail; but that every gentleman will have an opportunity to present his proposition.

Mr. WALKER—The subject is fully opened on this matter. There is a motion to recommit with such and such instructions. I have introduced one which I think valuable, and which I shall vote for. If any gentleman has a better one, he can present it. I hope every gentleman will vote understandingly on this subject. If they do not like the first proposition, they can vote for the substitutes, or offer one.

Mr. WILLIAMS—I am going against all instructions. I wish the matter reconsidered. I wish to read the substitute that I have prepared.

(Here Mr. W. read a substitute as follows, which was ruled out of order:)

"In all elections, every male inhabitant, (excluding Indians not taxed,) of the age of twenty-one years, who shall have resided in this State six months, and in the township or ward ten days next preceding an election, shall be entitled to vote at such election."

It seems (said Mr. W.) that Congress has sanctioned the acts of several States which have admitted various descriptions of men, not natives, nor naturalized citizens, to all the rights of electors. Now, if gentlemen would be consistent, let them come up to the scratch, and vote for what they declaim so fluently and eloquently about, and do not put in practice. It seemed to him that there was no consistency in taking a middle course. Let the naturalization laws of the United States be the test; or let gentlemen go for universal suf-

frage, and admit all men to the rights of electors. Citizenship of the United States of course we cannot confer on them.

Mr. RAYNALE—Perhaps the gentleman is not aware how the constitution was formed. It was not formed by citizens; it was formed by inhabitants. By the Ordinance, when the territory had 60,000 inhabitants it had a right to become a State. This power was conferred by the United States upon the territory of Michigan; and we had no right to take away the rights of the inhabitants of Michigan; therefore we proceeded upon a just and correct principle, when we permitted all to vote who resided within the State at the time of the adoption of the Constitution.

Now, it is true that there are laws of the United States that are called laws of naturalization; but these have no regard to our rights here, nor any relation to our own constitution or government. No gentleman will deny our right to decide who shall be electors in our own State. I am anxious to proceed upon correct principles. If under any circumstances aliens have the right to vote short of the period of the term of the naturalization laws of the United States, it is right under all circumstances.

I want this substitute fairly tested by this Convention. I believe if fairly understood by the Convention, that it will receive at least the sanction of a small majority, and the present article has received the support of but a small majority.

First; all citizens are entitled to vote after a six months residence. Secondly; all civilized Indians are entitled to vote. Thirdly; all white male inhabitants above the age of twenty-one years, who have resided two years in the State, and have filed their intentions to become citizens, shall be entitled to vote in all elections the same as other citizens of the United States.

It is fair, for it allows not only those who reside here now, but those who come hereafter the same privilege. The principle seems correct. We should adopt some uniform system; and I have no more regard for the rights of the aliens who reside here now, than I have for those who come hereafter. Their rights should be equal, and I want a correct principle laid down.

Mr. CHURCH—I shall vote for the

amendment to the instructions moved by the gentleman from Macomb. If that fails, I shall vote for the instructions moved by the delegate from Oakland. Yet I hope that the motion will fail, and that the motion to reconsider and bring it fully before us will prevail.

I take this course for these reasons. By an amendment I presented yesterday, I have been instrumental in placing the article unfairly before the people, and I intended to take the first opportunity that I could get to set myself right in the matter. Yesterday I voted against the substitute proposed by the delegate from Macomb; and did so, I am free to say, against my convictions of right, for political purposes. I voted rather with reference to the interests of my party, than to the rights of the case. I followed the express wish of gentlemen upon this floor, but I did not hear their sweet voices. I find that men dodge about this chamber floor, and I am aware that it is playing with edge tools. I am not to be outdone in this race for buncombe. I shall go as far as the farthest—not only by my speech, but by my vote.

Mr. BRITAIN—I would move to postpone the whole matter, to give the Convention time to judge whether the matter had not better be reconsidered, and have an opportunity of being prepared.

Mr. J. BARTOW—Under the other proposition, I should have been in favor of the proposition of the gentleman from Berrien. Although we may discuss it all day and close it up, it will be equally proper to open it again to-morrow. We have expunged the previous question, and if any gentleman chose he could move to commit the matter to the committee, and it will open the whole subject again.

Mr. BRITAIN—Perhaps members might make up their minds by Monday, as the matter will then be printed, and may do so without losing the time of the Convention. We shall lose, probably, the whole day with our present feelings, and accomplish nothing.

Mr. J. CLARK—I hope that this Convention will let this subject lie upon the table, and I trust that the good sense of this Convention will see the propriety of it. We have three different propositions before us for the consideration of the Convention. I voted the same as the gentleman from

Kent, but not with the same views. I voted in favor of principles that I hold dear, and that are essential to the rights of citizens; but the proposition of the gentleman from St. Joseph has swept those views away. I see it in a new light, and I want to consider a little while to see if I am right. I cannot go with him in his dark shades. I go for the Indians, because they are natives; but I cannot fully see the bearings of all these different propositions. There is great force in the remarks of my friend from Berrien, and I wish the matter might be for the present left open.

Mr. BAGG said—Mr. President, I had not intended to have said any thing this day on this or any other subject, but I have lived almost as long as any other delegate on this floor. I almost remember black cockade times, and do distinctly remember the days of the embargo of Thomas Jefferson, previous to the war of 1812. At that time, sir, an alien had to undergo a probationary state before he could become a citizen of these United States of twenty-one years. Now it is different. How has this been brought about? Sir, the democratic party, the party of progress and of equal rights, believing that democracy was confined to no geographic lines, that no man was consulted as to the location of his birth, determined to get rid of these aristocratic features of our constitution, which smacked too much of the relics of monarchy, of Great Britain, whose yoke we had just thrown off; accordingly they went to work in the various democratic States, and passed laws in their legislatures to get up conventions to amend their constitutions. New York, I think, took the lead, and although opposed by the federalists and whigs, was successful. State after State followed the lead, until most of the old thirteen States have revised and reformed their constitutions, and among other things struck out the odious property qualification. The effect of this liberal progression in the States has had the effect to so operate on Congress as to now shorten this probationary state of the alien, before he could become a citizen, to five years. During this period I have never heard a complaint, except from the opposition, and that that the aliens in nine times in ten, were democrats. Thus the democratic party, in opposition to the federalists and whigs, have

chased them from point to point, and whittled down the time already to that amount. The section now under consideration, proposes, in this State, to shorten it two years. I am in favor of the measure, and shall vote for it. I have steadily, in committee of the whole and elsewhere, voted for the most liberal provision, and shall continue to do so. I was in favor of the amendment in committee of the whole, offered by yourself, of one year. I shall now vote for this section or amendment, and if not successful, for the next most liberal which shall be offered. The progressive spirit of the age requires it—the progressive spirit of the democratic party requires it—the democracy of this State requires it, and they must have it. A large majority of the people of this State ask it and must be accommodated. The democratic party of the Union has done much for the nation and the world, in the dissemination of equal rights and liberal principles. It has much more to do. The great responsibility for weal or woe, rests upon us as a party. The Peninsular State is yet the banner State of Democracy. This Convention is a democratic Convention. On us, and us alone, rests the responsibility of making a democratic constitution. Has the small remnant of whigs and free soilers on this floor any responsibility in this matter? Not the least, except to artfully and deceptively defeat the measure. Let us then be united, and at once pass it and incorporate it in our constitution.

Mr. MORRISON—The gentleman from Kent says that he voted against his conviction of right; and, as he says that the subject of extending the right of suffrage is a ticklish one to handle in a Congressional district, I say that in any district, any county, it is a ticklish thing to handle either that or any subject contrary to a conviction of right. Then the gentleman votes so for political purposes—he is handling a ticklish subject. I view this question in another light. I consider that by extending the right of suffrage to foreigners, we are advancing the best interests of the State. We have expended thousands to induce emigrants to reside with us, and what have we effected? Wisconsin has opened her doors—she has extended to them the right of suffrage, and thousands have poured in, developing the resources

and adding to the riches of the State. Thousands have gone round by the Lakes; and if you question the travellers upon the Central Railroad, they will tell you they are going to Wisconsin. If any remain, their friends in Wisconsin tell them that rights are given there that are withheld in Michigan; and at the first opportunity they leave us and take up their abode there. And we may expend money by our emigration agents, but if we persist in our narrow policy, it will have but little effect. I hope that this will be looked upon as a right, not for political purposes. If you adopt what is right, you need not fear what a political party may say. I do not support this measure for any political reasons. I seek not for political eminence; I ask it not; but because it is my conviction of right, that induces me to support this measure.

Mr. BEARDSLEY—I am an American citizen by law, although born out of the United States, and I have some experience which others may not have, owing to this circumstance; and it is my conviction that a restriction of the right of suffrage will tend to prevent emigration to this State. I agree with the gentleman from Calhoun, that a majority of the emigrants pass through this State instead of remaining in it, and the reason I believe to be that they have more privileges in other States. In some, they have the right of voting and holding offices; and if we continue to keep restrictions, we are acting injuriously to the interests of the State of Michigan. I believe that the inhabitant of a State, after he has resided six months, should have the privilege of a vote, at least in the management of the counties; and I have been informed by a member of the Convention that there are counties filled with foreigners, and they are under the necessity of being governed by four or five native citizens, and have to submit to what taxes and measures they choose to impose.

Now, sir, I cannot conceive that privileges granted to aliens can be productive of disadvantages, or that the results will be attended by the consequences that some gentlemen fear will ensue. I believe that the State of Michigan is made up to a very great extent of what may be termed aliens, and they tend more to the improvement of the country than the native citi-

zens. The latter are more generally a trading, speculating class. The aliens clear the wilderness and make a permanent home with the intention of living always in the same place. The native may clear a portion, but as soon as he can command a good price for his farm, he is willing to sell and commence elsewhere. I consider it nothing more than fair and just that they should have the privilege of voting for those who are to impose taxes upon them and govern them. I believe that all, whether American citizens or not, are in favor of it; both are equally entitled to the benefit of the laws, and both should have equal rights with regard to the election of the law makers.

Mr. BRITAIN—I think that I was quite right in supposing that there was a wide difference of opinion in this Convention on this matter. One gentleman told us that we began with twenty-one years, but that now he thinks that five years is too much—that he will go for three, two, or one. Has he shown us what would be safe, not only for us but for our adopted citizens? We have heard something about the red republicanism of France, shutting their eyes and going it blind. But is there any evidence that she prospered under the system? Why was not France a Republic long since? Because, when she made a change, she made too great a change.

Is this Convention quite certain that the people who achieved the Independence of the United States through that protracted struggle, were prepared to give universal suffrage as we have done? They were prudent, discriminating men; they consulted the views and condition of the people; they saw how far they could prudently go, and they discriminated so wisely at least that it has perpetuated their government. But because they required a property qualification, should that be deemed proof of the necessity of its continuance? No sir: the experience of the day proves the contrary. It might have been wise for them to secure the elective franchise to persons who by the accumulation of property had given evidence that they could not be deceived. Yet, as the people became more acquainted with their civil institutions—became more qualified to perform the duties of electors, this restriction could be removed; and step by step we

have done so, until we have almost reached universal suffrage, and have retained our civil institutions unimpaired.

Is not that the proper course? What would you think of the man who, standing on the brink of the precipice of Niagara, should by one step attempt to reach the valley below, instead of going regularly down the steps. Where foreigners are mixed with our citizens, they soon become acquainted with our institutions, enter into our feelings, and are qualified to protect themselves in the discharge of their various duties, and the elective franchise would be safe in their hands. But do gentlemen know that to be the case where large colonies are formed without any mixture of American population; colonies of thousands; and when they come in and settle in the way they do, giving the American citizen no access to them, and under the control of their religious protectors to so great a degree that you can have no influence with them, how can they in so short a time become acquainted with our institutions?

Is it right to give to these persons, who come without knowledge of the elective franchise, the right of suffrage until a series of years and a succession of circumstances shall qualify them for the exercise of its rights and privileges? I am not afraid to do right, or to stand up to the post of duty; but we have not only a duty to perform to ourselves, but a duty to perform to our adopted citizens; we are bound to protect the institutions under which we live; which have been gained at so great a sacrifice of life and treasure, not only to ourselves, but to the adopted citizen also, who has at so great a sacrifice left his fatherland and braved the storms of the Ocean to obtain these privileges. I have asked the foreigner, do you want us to put in the Constitution a privilege authorizing all foreigners to vote? and three out of four have said "no sir—we have applied for the privilege of becoming citizens, and if we attain it at the end of five years it is good enough for us. We are satisfied with your administration of the government, and do not want you to do anything wrong for the purpose of taking care of our immediate interests."

These persons have lived with American citizens, and have become well acquainted

with the incapacity of those who do not mix with our people, to become acquainted with our institutions. It has been stated that the restriction of the right of suffrage is the cause of the bulk of the emigrants going through the State. Sir, is this so? Michigan has the most flourishing foreign colonies found in the western States at the present time, at least of Germans and Hollanders.

I admit that many go through the State, but I would ask gentlemen if there are not more ways than one to account for it? Where is the interest of the shipping and forwarding business with regard to this matter? Is it in retaining the foreigner in Michigan? Is it in telling them that Michigan is the best State? No sir. Because they lose a part of the profit of carrying if they do. If they go by the lakes, the lake interest wish to carry them round the lakes; if they go by the Central rail road, the rail road interests wish to carry them through Michigan. And the fact that Michigan has had so large an accession to her population from foreign countries in spite of the efforts of those extended railroads and shipping interests, should be some evidence that she may expect her share of the foreign population, without abusing her institutions by giving the foreign population improper privileges.

Mr. President, I have many friends amongst our adopted citizens, and I am certainly the friend of the adopted citizen, and ready to do anything for him, and for all of them, which can be done with safety to our own institutions. But sir, I want to Americanize him as speedily as practicable. I want to make the American system of education, the American language, American magistrates and American associations indispensable to him, because these are the only mediums through which you can extend to him the benefits of American institutions.

Sir, I would not countenance in this constitution the transplanting of a foreign colony into American soil under the jurisdiction and control of the same lords who oppressed them, and eat out their substance in their fatherland, and perpetuate this oppression, by making these same lords their American rulers, as desired by the gentleman from Macomb.

I now beg leave to call the attention of

the Convention to the propriety of laying over the subject for the present, so that we may consult one another. If the gentleman from Oakland can convince me that two years is enough, I shall be happy to go with him. We cannot this morning convince one another; and although by hurrying the matter through, gentlemen may gain an advantage, yet it may be but temporary; and if permanent, it cannot, I should think, be satisfactory to the persons obtaining the triumph. Therefore, I wish the matter postponed until Tuesday. Let us consult, compare views, and come in and arrange this matter with as little detraction as possible to the time of the Convention.

Mr. HANSCOM—I hope the matter will be postponed, that we may meet again and take some common ground.

Mr. WOODMAN—I hope that it will not be postponed. I am a farmer, and we have a saying "as goes the fore part of a week so goes the rest." Now, if we commence with it on Monday, we shall spend all the week over it.

Mr. CORNELL—I hope that it may be postponed. If we settle it to-day, it might not, upon reflection, satisfy the second thought of the Convention; it might be reconsidered, and thus retard our progress. If we agree to the proposition of Mr. BRITAIN, we may meet upon Tuesday next upon common ground.

Mr. WALKER moved to postpone it to Saturday.

Mr. WOODMAN said that the committee wished to have the Eulogy upon Saturday.

Mr. AMMON BROWN—If the question is postponed, we shall have the whole question again discussed; when it comes up the whole ground will be travelled over once more. This has invariably been the case, and I hope that the question will be settled now, while it is before the mind of the Convention.

Mr. BEARDSLEY—I hope that the matter will be postponed. Whatever may be the opinion of this Convention, the people are in favor of granting all the privileges to aliens that they properly and consistently can. And I think that upon due deliberation and conversation, this Convention would be in favor of granting upon the best terms the right of suffrage to al-

iens, because they would be satisfied that it would be for the best interests of the State, and that a removal of the restrictions would increase our wealth and resources.

Mr. WHITE—I voted this bill to a third reading for the purpose of expediting business; but I find that gentlemen will spend the whole time discussing matters, rather than do business. If the matter, by postponement, can be arranged so that we may meet upon some common ground, I am willing to postpone; but if we expect our deliberations to close within a reasonable time, we must take more decided action. There is a great question connected with this. I am willing to go as far as I can; but it seems to me that it comes in contravention with the statute laws of the United States, to shorten in this manner the term of naturalization; and that if the question is brought up before the Supreme court of the U. S., it will be found a nullity. It appears so to me. I may be wrong, but I wish to give the matter due consideration, therefore I wish the matter postponed.

Mr. WILLIAMS hoped the subject would be reconsidered now. Experience shows that as sure as we postpone a subject, we must go into a full discussion of it again. We had the clause in the Legislative Article relative to licenses before us twice, and had both times the same almost interminable discussion. We all have business at home that requires attention, and no time to waste. Seventy of us had better be at home than here. One reason has been suggested why we should postpone this subject now, and take it up on another occasion; that members might consult together. The whole Convention—the whole hundred—are here now, and can consult. What consultation do you want elsewhere? Of half a dozen men in a private bed room, or of a caucus? He regarded the whole Convention fully as competent as half a dozen men engaged in a scrub race for popularity. For his part, he was not willing to fool away time by any postponement.

Every proposition laid before the Convention, from those embracing universal suffrage to the most partial and spurious, will meet the prejudices and opposition of some portion of us. Now he regarded the tactics on this whole matter as most un-

mitigated and unqualified "Buncombe." It is the cry of universal suffrage till they come to a particular class. Then they dare not meet the question. They dare not carry out the theory they profess in hostility to a prejudice.

Mr. J. D. PIERCE—It is not so.

Mr. WILLIAMS—Yes, it is so. When the other gentleman from Calhoun [Mr. CRARY] was speaking the other day, relative to conferring power on the Legislature to disfranchise men guilty of infamous crimes, after urging upon us that we should encourage and reform such men; what! he says, "shall the slow, unmoving finger of scorn be pointed at them?" Yes, he asked, "shall the slow, unmoving finger of scorn" be pointed at him who has violated every law, human and divine; trampled on every ordinance of society; before whose malice and brutality neither person nor property is sacred; who fires the gentleman's own dwelling, threatens his life, or commits a rape on his own daughter? Oh no. The "slow, unmoving finger of scorn" is reserved to be pointed at a man who has performed all his duties faithfully to God and man, trampled on none of the laws and institutions of society, and in fact may practice most of the virtues that adorn and dignify human nature, if such a man is guilty of "a skin not colored like his own."

The gentleman [Mr. J. D. PIERCE] who interrupted him, denied that they dare not carry out a principle in face of a prejudice. Now, if Alexander Dumas himself should come to this country—and he might be driven here by the civil commotions of the old world—and take up his residence among us, though a man endowed with such capacities, genius and eloquence that the gentleman and myself sink to insignificance in comparison to a very ordinary level; yet, towards him the "slow, unmoving finger of scorn" must be pointed, instead of the man guilty of all the brutality and atrocity, such as he had described. No. This is a mere trial to see how far each man can extend the franchise and retain his popularity without regard to principle. It is a mere scrub race for popularity, in which some of the gentlemen may find "their breeches too short."

Mr. CRARY—I have taken no part in this discussion. In the Convention that

assembled fifteen years ago this month, some gentleman may recollect that I advocated the proposition that every free, white male inhabitant should have the privilege of being an elector after a residence of six months. In that Convention there was a majority in favor of that measure; but out of consideration to the feelings of a respectable minority, the majority compromised the question upon the principle now adopted in the Constitution. Since that time I have seen no reason to change the opinion I then entertained; and I did not believe that this Convention would be disposed to stop at that principle, but would be in favor of giving further privileges, as the action of the Legislature has been to invite immigration to the State. Therefore, I came prepared to vote for liberal measures, and did not think that the Convention would abide by the action of the former Convention.

I stand where I then stood—I am willing to vote for two years after a declaration of intentions; but in so declaring my intentions, I wish it distinctly understood that I am no candidate for Congress. Some ten years ago I refused to be a candidate, and still remain fixed in the determination not to be a candidate. The delegate from Kent [Mr. CHURCH] need not, therefore, give himself any trouble on my account.

I cannot go as far upon the question as the gentleman from St. Joseph, [Mr. WILLIAMS.] I cannot go his length upon the negro question. Upon this subject I think he is a monomaniac; for by his motion I take it he will give suffrage to the black and cut down upon the others.

Mr. WILLIAMS—No sir.

Mr. CRARY—Look at the proposition, and if such is not its effect I am unacquainted with the use of language.

I am (said Mr. C.) prepared to vote, and am willing to vote by yeas and nays. If gentlemen choose to postpone and consult, they can do so; but it will not change my vote. This matter, Mr. Chairman, has laid over for three weeks, and if postponed, it will have to be all gone over again, for it has been so with every other question. One thing is evident—we must act more in the spirit of compromise, or we shall see the snow fly before we get through. We were sent here to represent certain opinions,

or we should not have been here. You need not talk to me about forming your opinions here; you were sent here to represent the opinions that you were supposed to entertain before you came here. Delegates who form their opinions here will be very likely to form them wrong. If they adhere to the opinions they had, they will be more likely to reflect the will of their constituents. By remaining here and forming our opinions, we may become like the Legislature of last winter, who became a public opinion to themselves, and we are in danger of falling in the same error. My opinions are known. I am well known to be an opponent to the right of suffrage to the colored race; and if instructed now, I shall consider it as a false instruction, because my constituents knew my opinions before they sent me. I could give my reasons more fully, but it is unnecessary.

Mr. BEARDSLEY—I remarked before that I had some experience of the feelings of foreigners to the United States. I know that there are a class who will come, and will be glad to receive forty, twenty, or ten acres of land, because they could never at home expect to have more than two or three. But there is a higher order, who are willing to come when they can have the same privilege they exercise at home—the right of voting and electing their own officers.

It is a principle in some foreign lands, when they emigrate, to come in colonies, to establish themselves in bodies; and there are a great many respectable individuals who have rights in their own lands which they have not here. They do not wish to scatter themselves—they are not acquainted with our ways and manners. If they can establish themselves together, and elect their own officers, they are willing to emigrate and would be contented. If that was denied, they would prefer to remain at home, although they would be subjected to tyranny and oppression.

It is said that in the course of five years they can have all the privileges of United States citizens; but although it is a short time to look back, it is a long time to look forward to. We are told by some gentlemen that we should vote to allow the negroes the right of suffrage. To that I am entirely opposed. I am willing to leave this question to the people, and have their

answers through the ballot box, so that an end may be put to this vexed question. I am opposed to anything that looks like an amalgamation of the two races. The next thing asked would be to hold office; the next would be to ask our daughters for their sons and our sons for their daughters; and to that I am utterly opposed. But the foreigners will eventually be with us one people, and we should grant them the privileges asked.

Mr. KINGSLEY would inquire if the last three speakers were in order?

The CHAIR said that it was a debatable question.

Mr. AMMON BROWN thought the gentlemen had digressed, and hoped that members would be confined to the main question.

The question being on the amendment proposed by Mr. WALKER,

Mr. BRITAIN moved to postpone the whole subject until Tuesday next.

Mr. HATHAWAY moved to amend the above motion by striking out "Tuesday" and inserting "Friday," which did not prevail.

The question then recurring upon Mr. BRITAIN'S motion, the same was lost, as follows:

YEAS—Messrs. Alvord, Anderson, Beardsley, Britain, Burns, J. Clark, Conner, Cornell, Crary, Gale, Gardiner, Green, Hanscom, Hart, Lee, McLeod, O'Brien, Robertson, E. S. Robinson, Rix Robinson, Sturgis, Town, Van Valkenburgh, White—24.

NAYS—Messrs. W. Adams, Arzeno, Ax-ford, Backus, Bagg, Barnard, H. Bartow, J. Bartow, Beeson, Alvarado Brown, Ammon Brown, Asahel Brown, Bush, Butterfield, Carr, Chandler, Chapel, Choate, Church, Comstock, Cook, Danforth, Desnoyers, Dimond, Eastman, Eaton, Fralick, Gibson, Graham, Harvey, Hascall, Hathaway, Hixon, Kingsley, Kinne, Lovell, Marvin, Mason, Moore, Morrison, Mosher, Mowry, Newberry, Orr, J. D. Pierce, N. Pierce, Raynale, Redfield, M. Robinson, Skinner, Soule, Sullivan, Tiffany, Wait, Walker, Warden, Webster, Wells, Whittemore, Williams, Willard, Woodman, President—63.

Mr. STURGIS moved to amend the instructions of Mr. Hanscom, by striking out

"1849," and inserting "1850;" which was accepted by Mr. HANSCOM.

Mr. WALKER then moved to strike out "first day of January, 1850;" and insert "at the time of the adoption of this constitution;" but subsequently withdrew the motion.

The question then recurred upon the substitute offered by Mr. RAYNALE.

Mr. J. D. PIERCE thought the question had been fully discussed, but he considered it his duty to explain the vote he had given against it, because it was not as liberal as the old constitution. He did not want to progress backward in political matters. He well recollected the opposition that was made on the subject at the time of the adoption of the first constitution, yet it has been sanctioned by Congress. He was in favor of the second proposition; [Mr. RAYNALE's,] and for that would record his vote.

Mr. RAYNALE moved a call of the Convention, and a call was ordered.

There were absent without leave, Messrs. P. R. ADAMS, J. BARTOW, SULLIVAN, STORREY, TIFFANY and WITHERELL.

Mr. DANFORTH moved to dispense with further proceedings under the call; but the motion did not prevail.

On motion of Mr. RAYNALE, the Sergeant-at-arms was dispatched after the absentees.

Mr. HANSCOM—I will occupy the time of the House a few moments, while the Sergeant-at-arms is engaged in bringing here the absentees.

I have an objection to the proposition of my colleague, [Mr. RAYNALE,] as it acts prospectively. The emigrants that arrive hereafter will shortly become voters. Now sir, we can act understandingly with regard to the existing state of things, we can act with safety; but we cannot do so with prospective action, because we do not know to what extent emigration will increase.

The northern counties are becoming peopled by Germans, Swiss and Dutch; and although we ought to extend to them the benefit of our laws, yet I conceive there would be an impropriety in committing to them the right of suffrage before they are acquainted with our language or institutions. It will operate unjustly; as

those who reside in the northern counties have been obliged to go the usual time required by the United States law. They loose no rights, for they know that the elective franchise is withheld until they have had some training. I yield to none in liberality, but I consider the proposition dangerous until they become acquainted with our laws. Let them vote only if they have filed their intentions, for the reason that it indicates a *bona fide* intention to become citizens. I therefore hope that this proposition will not be adopted.

Mr. MOORE—I wish to call the attention of the House for a few moments. I cannot bring my mind to a conclusion from the arguments, that this article can be amended for the better. I am willing to extend the right of suffrage to foreigners before they are citizens, if it can be done without departing from a general law; but we must recollect that there are thousands of persons located in this State who do not speak our language—know nothing about our laws—keep aloof from us, and by their acts and conduct seem disposed to remain so, and under the command of leaders who can control their votes by thousands. They should be a sufficient time in this country to become acquainted with our laws, before they should be allowed to come and sway our elections at their will. I think that it is a dangerous precedent, to thus depart from a general principle that has been established in the older States, for the sake of accommodating a few persons scattered about the country who wish to go to Congress. And, sir, I do not think the democratic party will lose one vote by it. However, gentlemen who have been on the stool of repentance may lose by the Convention carrying out this wholesome principle that has been settled after a full discussion. There was a full discussion in committee of the whole, and it was decided by a respectable majority to retain the provision already reported by the committee. We are changing our votes every day like children, who have no mind of their own. We depart from our general principles in the district system to please a part of the community. When we do this to accommodate certain parties, and lose sight of general principles, we shall by and by find ourselves in trouble, for it will react upon the democratic party, as the other party has

no responsibility. I shall vote for not recommitting the article.

Mr. J. D. PIERCE—The article was ordered to a third reading by a majority of two, and I want to know if a measure of this importance should pass this Convention by so slight a majority?—

A MEMBER—Eighty-one votes, and a majority of two.

Mr. J. D. PIERCE—Eighty-one votes, and a majority of two. Have any evils grown up from this liberality? How long, I would ask, is it since the people of this State invited foreigners here? If some come here not so soon as others by a day, should we shut them out? Is that the doctrine? No sir. I shall vote for the most liberal proposition—that of the gentleman from Oakland, [Mr. RAYNALE.]

Mr. MOORE—My appeal was not to the minority, but to the majority.

Mr. WALKER—I feel anxious to define my position. Yesterday I offered a proposition substantially the same as the one from the gentleman from Oakland, except the two years; it required six months to enable the inhabitant to exercise the right of the elective franchise. Afterwards, the proposition of my colleague was voted down, for the purpose of having something more liberal; more liberal indeed than my own. With reference to the two now before the Convention, (Mr. HANSCOM's and Mr. RAYNALE's,) there is this difference: in one respect Mr. HANSCOM's is the most liberal; for it permits all to vote who reside here at a particular time, whether they have been here two years or not. Mr. RAYNALE's allows all who reside or may hereafter reside here, to vote at the expiration of two years, acting retrospectively and prospectively, when they shall have declared their intentions to become citizens of the United States.

I prefer Mr. RAYNALE's, for it is establishing a general rule which will give no particular advantage over those who may come hereafter. One gentleman has referred to the red republicanism of France. He must be in favor of a property qualification, as that is one of their distinctive traits.

Let us examine this subject. Many think that we are debarred by the constitution of the United States. I shall not answer the argument of the gentleman from

St. Joseph, who went so far as to trample upon the very constitution of the United States. But I am satisfied that a misapprehension prevails upon this subject, both with him and others. Congress may make uniform naturalization laws; but can Congress determine who shall be electors within the States? No sir. We have determined that the officers of the State shall be citizens of the United States, and we have left to the determination of Congress who shall be legally termed such citizens. But as to who shall be qualified to vote, Congress has laid down no rules, nor undertaken to do so, except that the States shall adopt the same qualifications for electors of members of Congress as for members of the popular branch of the Legislature of the State. They have left this open to the State. Under the old confederacy, every inhabitant of a State was declared to be a citizen of every other State. That is the language, and any gentleman can examine it. No other test was required than that he should be an inhabitant, to entitle him to citizenship of the United States.

A false impression was obtained at the time this article was in committee of the whole. It was said that the inhabitant might have the privilege of voting, but he could not hold office. I defy gentlemen to point out authority for this assertion, unless this constitution prohibits them. We have in our former constitution prohibited them from becoming Governors or Senators; but we have not restricted our county or township officers in this respect, and I wish to refer to the situation of our Colonies—Colonies that are isolated, and speaking their own language. If this is so, this makes one of the strongest reasons why they should not be prohibited. Shall we leave them without government—without voters at the polls—without any individual being able to hold any office, even that of a pathmaster? Shall we send officers from the older towns to perform their duties for them? If that is their situation—if there is no native population, there would seem to be an urgent necessity that these powers shall be given. Another gentleman says they do not speak our language. This will induce them to learn it. What object have they now? They have no right to participate in the government, or

use the elective franchise. Why should they express any anxiety to learn the language of a people who exclude them from all the offices of government? If you put this in your constitution, you would then offer an inducement for them to learn. It would be necessary that they should become acquainted with men and things; and this would be a proper way whereby they would become acquainted.

Again, if they don't want to learn the language, what better off will you be at the end of five years? Then they will come in, and come in with a feeling that they had been kept out while a portion had come in at a much shorter time—that they had been deprived of the rights which had been given to others. Why should we be more liberal now than at the time of the adoption of the first constitution. No evil effects from it had been felt, while if we take a backward step now, it will appear as if the measure had been an evil, when it has actually been a benefit to the State.

Mr. WILLIAMS understood the gentleman from Macomb [Mr. WALKER] to say that he had avowed a willingness to violate the constitution of the United States in conferring the right of suffrage. Now, he did not mean to say, and had not said any such thing. But he would say that we were fully justified in taking the most liberal course in regard to conferring the privileges of electors on men not citizens under the naturalization laws of the United States. When first admitted into the Union, we sent a delegation to Congress, among whom was the gentleman from Calhoun, [Mr. CRARY,] and our admission was opposed by Mr. Calhoun and others, on the ground that we had created men electors and made them locally citizens of our own State in disregard of the naturalization laws. What were the merits of the case? Section 2, article 1 of the Constitution of the United States says: "The House of Representatives shall be composed of members chosen every second year by the people of the several States; and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature." For fourteen years we have been admitted to full communion with the rest of the Union, and our right to make men electors

as we pleased has remained unquestioned.

The constitution of Wisconsin makes electors of all "white persons of foreign birth, who have declared their intention to become citizens, conformably to the laws of the United States on the subject of naturalization."

The constitution of Illinois says: "Every white male inhabitant of the age of twenty-one years, who may be a resident of the State at the time of the adoption of this constitution, shall have the right of voting."

Thus, several of the States have determined who shall be their electors, and it is not regarded by the Congress of the United States as a violation of the principle that Congress has exclusive power to pass uniform laws of naturalization. We make men electors within our own borders—not citizens beyond our borders. We make them electors for State purposes, not citizens for national purposes. Under these circumstances he thought it perfectly competent and expedient for us to go as far as the substitute he read this morning went.

But still, if there was doubt as to the constitutionality of such a course, lapse of time and acquiescence in what was a departure from or an infringement of the constitution by the people and the courts, and the Congress of the United States, have sanctioned whatever has been done by our State, Illinois or Wisconsin. Even absolute violations of the constitution, arising from necessity, have been sustained by the country and the courts. You can find no power to purchase Louisiana, to annex Texas, or to make conquest of Mexico, if you look for an explicit grant. Mr. Jefferson, in his famous letter to Levi Lincoln, declares the purchase of Louisiana unconstitutional; and in another letter declares that his assumptions ought to be cured by an amendment of the constitution. It is becoming the settled policy of the new States to admit all residents, or nearly all, to the privileges of electors; and the whole people and the nation sanction it. Which ever State is most rigid and exclusive loses the best portion of the emigrants.

Having finished his explanation, he wished to say a word more, as to the inconsistency of gentlemen on this question. When the gentleman from Mackinac [Mr. McLEOD] moved his amendment to confer the privileges of electors on civilized per-

sons of Indian descent, with what hot haste gentlemen ran to concede that privilege. This was thought to be popular; no prejudices to be surmounted here; but he defied any man to show a single reason for the extension of the right to this class of men which would not apply to another excluded class. Here was a decision entirely on the ground of expediency.

When the subject of education comes up, he would venture to say we shall witness the same timidity, the same shrinking for fear of crossing the popular will. All profess to want a free school system; but he doubted whether the Convention would at once boldly establish it. It was doubly necessary to do so, if the right of suffrage was extended.

—It is plain that the whole of the new States were approaching rapidly universal suffrage. He was not afraid of it. Let universal suffrage and universal education go hand and hand, and all the interests of society are safe.

Mr. J. BARTOW said that both propositions were objectionable. He should vote for the most objectionable, with a view to defeat it entirely.

The Sergeant-at-arms reported the absentees present, except Mr. P. R. ADAMS.

On motion of Mr. DANFORTH, all further proceedings under the call were dispensed with.

The question then recurring upon the adoption of the substitute of Mr. RAYNALE,

Mr. WHIPPLE moved to strike out "two years," and insert "three years."

Mr. W. said—I am in favor, sir, of adopting a liberal policy in relation to those who flee from oppression abroad, and seek an asylum in this country. I would extend to them the hand of friendship and the rites of hospitality. But, sir, our government springs from the people, who, through the ballot box, direct and control public measures. An intelligent exercise of the right of voting, necessarily implies a knowledge of the true character of that government by those for whose benefit it is established. This knowledge, I will go further and say, is necessary to the existence of our free institutions. It will hardly be contended, I think, that the foreigner who lands upon our shores can acquire enlightened views of our complex system and imbibe its true spirit in a shorter period

than three years. He must first study our language before he can inform himself of our constitution and laws; of the rights they confer, and the duties they assume. I am aware, sir, with what eagerness they seek information, and how rapidly they acquire that knowledge by which they can comprehend how so much of individual freedom as they enjoy is compatible with public order; yet, I think it would be unsafe to confer upon them all the rights of citizenship without demanding a residence of three years.

In support of the amendment, I beg leave to suggest another fact which will influence the vote I am about to give. It is well known that there has been a large emigration from Germany and Holland to our State for the last three or four years, and that these emigrants have clustered together, and are not dispersed among our citizens. This circumstance is unfavorable to the acquisition of that knowledge so necessary to prepare them for an intelligent discharge of their duties as citizens. Forming distinct communities, they are not brought into frequent contact with those from whom important lessons might be acquired. Schools are established, but instruction is conveyed to their children in the language of their native country; and it is quite clear that this fact will retard their advancement in that branch of human knowledge which fits them for the enlightened discharge of their obligations as citizens.

It is also said (with how much truth I do not know,) that these colonies are guided by a distinct head, who exerts over them a controlling influence. To perpetuate this power would be the natural desire of those under whose lead they may have penetrated our trackless forests. I desire that the sway thus exercised over them by one person should be broken. Until this is accomplished, they will not and cannot feel and act like citizens of a free republic. They will yield obedience to the dictates of their chosen leader, rather than to their own sense of duty. But I will not amplify on this subject; while I would not arm them with a power which might prove disastrous to the rights of our own citizens, I would not withhold from them political rights, when I am satisfied they can be made a safe depository of those rights.

In reply to the remarks of the gentleman from Macomb, [Mr. WALKER,] that my proposition does not display the liberality evinced by the framers of our present constitution, I beg to say that the right to form a constitution and State government was guaranteed to the territory when it obtained a population of 60,000 "free inhabitants." This provision led the Convention to adopt the liberal policy to be found in the constitution.

Mr. BAGG said—Mr. President: I am sorry to see my friend, the Chief Justice, fall into the same category by offering this amendment with the gentleman from Berrien, [Mr. BRITAIN.] His imagination is also chased by the ghost of the priest of the Dutch Colony. They are afraid that this Colony, if we pass this liberal provision, being under the influence of a certain priest, will go whig, and control the county to which they may be attached. These local considerations, sir, have no effect upon my judgment in these matters. General principles are my only guide. But, sir, I deny there is any danger locally, even in this point of view. These aliens, as well as all others that come to our shores, learn at home pity by oppression, liberty from restraint, and know how to prize freedom when they arrive here. They study the theory and nature of our government, its spirit and genius, long before they make the tour to this country. Many of them understand it at home better than our own native citizens, and prize it higher. It is natural to us; therefore we do not so well know its value as those who are deprived of it. I am acquainted with many Germans as well as Dutchmen, in various parts of the country, and a more liberal, warm-hearted, independent set of inhabitants don't live! They are further, at least in this country, from being ruled by any one man or set of men, than any other nation, tongue or kindred under Heaven. Prompt decision and independent judgment are their characteristics as a people. I have no fears on this score. They are naturally democratic, good feeling and liberal.

I trust the amendment to strike out two years and insert three, will not prevail. While up, I will say that the present United States law of five years operates severely on many aliens. They land upon our shores at New York, Boston or else-

where—they stay in one State perhaps one year, then migrate to another. After having at first declared their intentions, and having been in the United States five years, they come forward in court to get their last papers. Courts in this State differ in being satisfied with testimony. While some are satisfied with one witness, others require two disinterested citizens to swear to the time, and the good character; and the gentleman from Berrien to my certain knowledge is among the latter. On casting about, the alien finds one of his witnesses resides in New York, a second in some other State, and a third in the State of Michigan. He finds, after all, he cannot prove now in court to its satisfaction but three years; although, perhaps he has been an inhabitant of the United States five years or more. Consequently he is obliged to wait one, two, or three years longer, before he can become a citizen. Sometimes the witness is dead; sometimes has removed to a distant land. Thus it operates severely on many aliens who are obliged to wait five years. I hope the amendment of the Chief Justice will not prevail.

The amendment was disagreed to, as follows:

YEAS—Messrs. Axford, H. Bartow, J. Bartow, Beeson, Britain, Ammon Brown, Burns, Carr, Chandler, J. Clark, Comstock, Cook, Fralick, Gardiner, Mason, McLeod, Moore, Mowry, Newberry, N. Pierce, M. Robinson, Skinner, Storey, Town, Webster, White, Whipple, Whittemore—28.

NAYS—Messrs. W. Adams, Alvord, Anderson, Arzeno, Backus, Bagg, Barnard, Beardsley, Alvarado Brown, Asahel Brown, Bush, Butterfield, Chapel, Choate, Church, Cornell, Crary, Danforth, Daniels, Dimond, Eastman, Eaton, Edmunds, Gale, Gibson, Green, Hanscom, Hart, Harvey, Hascall, Hathaway, Hixon, Kingsley, Lee, Lovell, Marvin, Morrison, Mosher, O'Brien, Orr, J. D. Pierce, Raynale, Redfield, Roberts, Robertson, E. S. Robinson, Rix Robinson, Soule, Sturgis, Sullivan, Tiffany, Van Valkenburgh, Wait, Walker, Warden, Wells, Williams, Willard, Witherell, Woodman, President—61.

Mr. WHIPPLE moved to strike out "six months," and insert "four months."

Mr. BURNS moved to amend by inserting "three months;" which was accepted by Mr. WHIPPLE.

Mr. REDFIELD—I have found that six months works an injustice. Citizens moving in the spring cannot come within five, ten or twenty days of the time required by law to entitle them to vote in the fall; one or two months would effect this remedy, and they contain the most desirable class of voters. All, under such circumstances, should have a right to vote. I hope that the Convention will so modify it.

Mr. WITHERELL—I do not see the necessity or reason for this proposition. If that is the object, why do you not reduce it to a day, so as to catch some stray voter that may come in a day or two before election? There is a necessity for the citizen having a knowledge of the character of the man for whom he votes; and if you shorten the time, I say that you should make an actual residence at the time of voting the only qualification. The citizen who comes from New York is acquainted with our institutions; the standing and ability of the candidates for office is the reason why the law required a residence of six months. I will go so far, however, as to strike out, leaving it actual residence.

Mr. REDFIELD would go for four months; he thought that was enough.

Mr. BACKUS then called for a division of the question; and the words "six months" were stricken out.

The words "three months" were then inserted.

Mr. HANSCOM then modified his instructions to conform to the above amendment to Mr. RAYNALE's substitute.

Mr. STOREY moved to strike out "for the ten days next preceding such election."

Mr. EATON hoped it would not be stricken out; it was a safeguard against colonizing.

Motion lost.

Mr. CRARY moved to strike out of the substitute, "being a native of the United States."

Mr. C. would ask Mr. RAYNALE to explain the meaning of that clause.

Mr. RAYNALE—It means the Indian tribes. I copied it from the gentleman from Mackinac, who is perfect.

Mr. CRARY—It will exclude the children of parents whose fathers have been naturalized. I want it either stricken out or applied to the Indian tribes.

Mr. RAYNALE accepted the amendment to strike out.

The yeas and nays were then ordered on the substitute, and the call commenced;

When Mr. BACKUS moved to amend by adding at the end of the substitute the following: "and every such elector shall be eligible to all offices under this constitution."

Mr. B. said—The motion is supported, and I wish to give my reasons—

Mr. HANSCOM—I call the gentleman to order; the roll is partly called.

A MEMBER—It is a matter of courtesy.

Mr. BACKUS—I never assume a position without I have a right.

Mr. MASON moved that he have leave to proceed.

Mr. PIERCE—I believe—

Mr. HANSCOM called the gentleman to order.

Mr. PIERCE—I was speaking to a question of order.

Mr. HANSCOM—There is no question of order.

The CHAIR stated that the roll having been commenced, Mr. BACKUS was not in order.

Mr. MASON thought that the rule should be different—

Mr. EATON called the gentleman from St. Clair [Mr. MASON] to order.

Mr. RAYNALE's substitute was then lost by a tie vote, as follows:

YEAS—Messrs. Alvord, Anderson, Arzeno, Bagg, Barnard, H. Bartow, Britain, Alvarado Brown, Asahel Brown, Chapel, Choate, Church, Cornell, Crary, Danforth, Desnoyers, Eastman, Eaton, Edmunds, Gibson, Hixon, Kingsley, Lee, Lovell, Marvin, Mason, McLeod, Morrison, O'Brien, Orr, J. D. Pierce, Raynale, E. S. Robinson, Rix Robinson, Soule, Sturgis, Tiffany, Walker, Warden, Whipple, Williams, Willard, Witherell, Woodman, President—45.

NAYS—Messrs. W. Adams, Axford, Backus, J. Bartow, Beeson, Burns, Bush, Ammon Brown, Butterfield, Carr, Chandler, Comstock, Conner, Cook, Daniels, Fralick, Gale, Gardiner, Graham, Green, Hanscom, Hart, Harvey, Hascall, Hathaway, Kinne, Moore, Mosher, Mowry, Newberry, N. Pierce, Redfield, Roberts, Robertson, M. Robinson, Skinner, Storey,

Sullivan, Town, Van Valkenburgh, Wait, Webster, Wells, White, Whittmore—45.

The question then recurring upon Mr. HANSCOM's motion to commit with instructions,

Mr. BACKUS moved to amend the instructions by adding as follows: "and every such elector shall be eligible to all offices under this constitution."

Mr. MASON moved that the Convention adjourn; which was disagreed to.

Mr. BACKUS then proceeded to debate the amendment, but gave way by request.

The Convention then adjourned.

Afternoon Session.

The Convention was called to order by the PRESIDENT.

The Convention resumed the consideration of the motion to commit with instructions, made by Mr. HANSCOM.

The question being upon the amendment of Mr. BACKUS to the instructions,

Mr. BACKUS modified his amendment so as to read as follows: "and every such elector shall be eligible to all offices in this State, at the same age and upon the same terms of residence as is prescribed in this constitution."

Mr. B. said—At the adjournment of the Convention, I was about submitting my views in support of the amendment. I have listened with attention to the various arguments and views submitted to this Convention upon the question of recommitting to a committee with positive instructions. I have listened to hear if any sentiments would accord with my own, and have heard with sorrow my worthy friend from Wayne, who will persist in presenting this matter as a party measure. I can view the matter in no such light. I can participate in no such feelings. I have come here for a widely different purpose. This Convention is assembled to form a constitution—not to listen to party harangues, whether whig or democratic. I embarked in a common cause, and my object is to carry out the greatest good to the greatest number, without any reference to a political party; and viewing it only as it will affect the highest interests, social and moral, of the State. Every

member should regret allusions of this kind—this calling up spirits from the vasty deep, or any attempts to organize upon this floor a party feeling, or any attempt to make a party constitution.

But with regard to this amendment. Gentleman are willing to welcome the poor foreigner who has suffered from foreign oppression, to our shores, but have forgotten what this simple amendment is disposed to concede. They are disposed to enlarge the constituency, to break down the restrictions of the constitution of the United States; but have never thought of electing to office those of whom they make "hewers of wood and drawers of water." The gentleman is willing that they may go to the polls, put in their votes, go back to their several occupations; while he and others go off with the honor and fame of office-holders.

If consistent, you should extend to them all the offices they can vote for; to be consistent, you must do it. If he can vote for a Representative, let him be capable of being a Representative; or if he can vote for a Senator, let him be a Senator; but he may do the voting while others run away with the spoils of office.

This has been entirely forgotten. Gentlemen have spent from three to five days discussing how the constituency should be enlarged, but not one minute in removing the restrictions which prevent these persons from holding places of honor and trust; making them the servants of the office holders, who must be citizens of the United States. If you grant the right of voting, you should grant the right of office holding; and I trust that this principle will be adopted by this Convention in this constitution.

Mr. HANSCOM—I regret that my friend from Wayne should have found it necessary to introduce such an amendment. He asserts that he introduces it in good faith, and I am bound to believe his assertion; but it requires a great effort on my part to so believe it. His capacity as a legislator and man of business is so well known that it requires a great stretch of courtesy to believe the motives govern him that he assumes. What is the proposition before us? That A., B. and C. shall be electors—shall be eligible to any office. And I ask him, with all his legal

activeness, is this amendment german to the matter? This can more properly be reached in the Executive Department, or the bill providing for County Officers. I will go as far as he dare go, when the matter is brought before us properly; but I am unwilling to see this lumbered up with what is designed to kill the proposition. I believe there are many—I know there are some who are unwilling that a vote should extend beyond the native born citizen. I will not charge him with that, but if he is the absolute friend of the foreigner, I ask him, in justice to them, not to bring up an amendment in an improper way.

It has been said, I believe, that it would be proper to allow them to hold township offices; but we are at present defining the rights of electors; the subject to which his amendment refers has no proper connection. Therefore, I am opposed to placing in this article his amendment.

Mr. WHIPPLE would inquire of the gentleman if every voter had not the right to be voted for, except there was a prohibition?

Mr. BACKUS would refer the Chief Justice to the constitution, which requires the Governor, Lieutenant Governor, Senators and Representatives to be citizens of the United States.

The question being on the amendment,

Mr. ROBERTSON wished to explain the vote he would give.

Mr. EATON objected.

The yeas and nays being called for, the amendment was adopted by the following vote:

YEAS—Messrs. Alvord, Anderson, Arzeno, Axford, Backus, H. Bartow, Alvarado Brown, Asahel Brown, Butterfield, Carr, Chandler, Church, J. Clark, Comstock, Cook, Crary, Danforth, Daniels, Eastman, Eaton, Edmunds, Gale, Gardiner, Gibson, Graham, Green, Hart, Harvey, Hascall, Lee, Lovell, Mason, Morrison, Mowry, Mosher, Newberry, Orr, Raynale, Redfield, M. Robinson, Rix Robinson, Sullivan, Van Valkenburgh, Wait, Warden, Webster, Wells, White, Whipple, Williams, Willard, Woodman—52.

NAYS—Messrs. W. Adams, Bagg, J. Bartow, Beardsley, Britain, Ammon Brown, Choate, Conner, Cornell, Desnoyers, Dimond, Fralick, Hanscom, Hathaway, Kingsley, Kinne, Marvin, McLeod,

O'Brien, J. D. Pierce, Roberts, Robertson, E. S. Robinson, Skinner, Soule, Sturgis, Tiffany, Whittemore, President—29.

Mr. J. D. PIERCE moved to amend the instructions by inserting after "State," in fourth line, "and also every white male inhabitant of the age aforesaid, who shall have resided in the State two and a half years, and declared his intention to become a citizen of the United States."

Mr. ROBERTSON moved a call of the Convention, which was sustained; and upon calling the roll, Messrs. P. R. ADAMS, BURNS, MOORE, N. PIERCE, TOWN, and WITHERELL, were absent without leave.

Mr. WOODMAN wanted to know if this would reach Mr. P. R. ADAMS; he wanted to reach his case.

Mr. MORRISON moved to dispense with all further proceedings under the call.

Which was not agreed to.

Mr. EATON moved that the Sergeant-at-arms be dispatched after the absentees; which motion did not prevail.

Mr. ——— moved that the Convention adjourn; but the Convention refused to adjourn.

On motion of Mr. MASON, all further proceedings under the call were dispensed with.

Mr. BACKUS moved to strike out all after the word "aforesaid," in Mr. J. D. PIERCE's amendment.

The object (said Mr. B.) is to allow all to vote as soon as they arrive.

Mr. ROBERTSON—The question, I believe, is upon the amendment to the amendment. When the motion of the gentleman from Wayne first came up, I voted in the negative, as I could not believe that it was done with so pure a motive. Now, the real motive is seen.

The CHAIR—The gentleman is out of order.

Mr. ROBERTSON—I suspected that it was not with so pure a motive as he assumed; although of course I am willing to take his word. One reason, Mr. Chairman, which led me to make the assertion is this: on our journals we find his name recorded against every liberal proposition. We have his votes before us; and yet forsooth, we are to give him credit for all sincerity, and no party motive. Can we do so? I think not. I shall treat it with as little ceremony as others treated the pro-

position of my colleague, [Mr. WALKER.]

What is the proposition? That every white male inhabitant shall have the right to vote as soon as he arrives. And does the gentleman wish this to prevail, and say he offers it in good faith? We are bound to believe and say so in Convention; but out of it we can say what we think is the motive and the design. Is the design to make the constitution so odious that it will be rejected by the people? I hope that it will not prevail, as the design is so apparent.

Mr. BACKUS—My friend from Maccomb has turned prophet; otherwise he cannot divine the motive that induced me to vote yesterday. The propositions introduced here by gentlemen, are not sufficiently liberal, not sufficiently enlarged. If the intelligent foreigner, tired of oppression at home—if the Hungarian, after struggling against the Autocrat, comes here, the conclusion is, they are democratic. What need to declare their intentions? They have proved it by crossing the Ocean. We take them to our bosoms and bid them prosper; they clear our wilderness, plant orchards, raise wheat, and do what other worthy citizens do. Why does my friend from Calhoun wish to hold them in dufrance for two and a half years? This is but carrying the principle out in detail. My friend from Maccomb charges me with bad motives; says that I am not sincere; says that the records exhibit it. The records exhibit my voting against propositions that were too contracted. I propose enlarging them. I propose giving those who land here the most enlarged participation in our rights—not like some who I find wish to hold close communion.

Mr. HANSCOM would ask if the gentleman did not vote that the native born citizen should not vote except after a residence of six months.

Mr. BACKUS—That was because I wanted to have them vote immediately. I should like to know how the gentleman from Oakland can adduce proof to establish the motive. Do not these amendments speak in trumpet tones my liberality? Why did them go to a court of justice to declare their intentions? Why not establish this provision, and as soon as they land bid them welcome to the blessings of our institutions?

Mr. CRARY would like to have the gentleman explain his vote yesterday upon Mr. WALKER's proposition.

Mr. J. D. PIERCE—When a gentleman's motives are as clear as the sun in the firmament, without a cloud—

A MEMBER—Order, order.

Mr. J. D. PIERCE—When a gentleman puts his name in his hat, we know whose it is: I am merely supposing a case; I am making no application; I don't suppose it is necessary to make any application. I hope that this amendment will not prevail, and that this other amendment will be amended.

Mr. BACKUS called for the yeas and nays, and the same being ordered, the amendment did not prevail, as follows:

YEAS—Messrs. Alvord, Anderson, Ax-ford, Backus, Asahel Brown, Carr, Chandler, Church, Crary, Eastman, Edmunds, Gale, Gardiner, Green, Harvey, Hascall, Lovell, Mason, Mowry, Newberry, N. Pierce, Rix Robinson, Wait, Webster, Wells, White, Williams—27.

NAYS—Messrs. W. Adams, Arzetio, Bagg, Barnard, H. Bartow, J. Bartow, Beeson, Britain, Alvarado Brown, Ammon Brown, Bush, Chapel, Choate, J. Clark, Comstock, Conner, Cook, Cornell, Danforth, Daniels, Desnoyers, Dimond, Eaton, Fralick, Gibson, Graham, Hanscom, Hart, Hathaway, Hixon, Kingsley, Kinne, Marvin, McLeod, Morrison, Mosher, O'Brien, Orr, J. D. Pierce, Raynale, Redfield, Roberts, Robertson, E. S. Robinson, M. Robinson, Skinner, Soule, Storey, Sturgis, Sullivan, Tiffany, Van Valkenburgh, Walker, Warden, Whipple, Whittemore, Wil-lard, Woodman, President—59.

The question then recurring upon the amendment of Mr. J. D. PIERCE, it was adopted by the following vote:

YEAS—Messrs. Alvord, Anderson, Arzetio, Backus, Bagg, Barnard, H. Bartow, J. Bartow, Beardsley, Britain, Alvarado Brown, Bush, Butterfield, Chandler, Chapel, Choate, Church, Conner, Cook, Cornell, Crary, Danforth, Desnoyers, Eastman, Eaton, Edmunds, Gale, Gardiner, Gibson, Graham, Hart, Hascall, Hathaway, Hixon, Kingsley, Kinne, Lee, Lovell, Marvin, Mason, McLeod, Morrison, Mosher, Mowry, Newberry, O'Brien, Orr, J. D. Pierce, N. Pierce, Raynale, Roberts, Robertson, E. S. Robinson, Skinner, Soule,

Sturgis, Sullivan, Van Valkenburgh, Walker, Warden, Wells, Whipple, Williams, Willard, Woodman, President—66.

NAYS—Messrs. W. Adams, Axford, Beeson, Ammon Brown, Asahel Brown, Carr, J. Clark, Comstock, Daniels, Diamond, Fralick, Green, Hanscom, Harvey, Redfield, M. Robinson, Rix Robinson, Storey, Tiffany, Town, Wait, Webster, White, Whittemore—24.

Mr. HANSCOM moved to reconsider the vote by which the Convention adopted the amendment offered by Mr. BACKUS to the instructions.

Mr. H. said—When the obvious intent is to destroy the provision, I am frank to say that I am surprised to see members of the democratic party following the lead of a whig and a free soiler. I am not afraid of my standing upon this question. I am sorry to see democrats following this lead, and I am unwilling to leave it in this shape.

Mr. WOODMAN—I hope that the motion will prevail. I cast my vote as I did for the purpose of reconsidering. I want to extend privileges, with the gentleman from Wayne, but I want them extended in the proper place; and I hope that the vote will be reconsidered, and taken upon the merits of the proposition.

Mr. CHURCH—I am about to vote for it, and in so doing I shall be sorry that I am following the lead of a whig or free-soiler. Take a township of Dutch whom you make voters, and what will you do for town officers if you deprive them of the right of holding office. From their rapidly increasing numbers they will soon fill a county, and the same difficulty will occur with county officers. If you make them voters, make them capable of holding all offices in the State. They will thus hold the town and county offices when chosen; while, if you wish to exclude them from the office of Governor or Lieutenant Governor, put that prohibition in the proper article.

Mr. BACKUS demanded the yeas and nays.

Mr. J. CLARK—As the yeas and nays are called for, I shall be obliged to vote. It has been the practice to exclude all but the naturalized citizen even from the smallest office. As this can be reached in a more appropriate place, I shall vote against

it. As there is a rakish craft, carrying a large sail, in company with us, we must put up the helm, come in the wind, and I'll be bound away she'll go, for you may depend upon it she is on a strange tack.

Mr. WOODMAN—I voted with the gentleman from Wayne upon honest principles, which I think just and proper in their place; and when gentlemen rise and accuse me of following the wake of a free-soil leader, I tell them I had rather follow a whig or a free soiler who is honest, than a partizan who is dishonest. I voted for it, and I think it is right; and I don't want to be criminated.

Mr. ROBERTSON—The gentleman from Wayne is overflowing with the milk of human kindness, at least since yesterday. We have, however, fixed upon a rule with regard to State officers. I am willing to go with the gentleman from Wayne with regard to town and county officers; but as the gentleman has a logical, subtle mind, is it, I would ask, in the proper place in this article? The gentleman from Oakland properly defined that we were settling the qualifications of the electors, not those to be elected. Although, in favor of State officers being United States citizens, yet I am ready to vote with him upon county and town offices being held by others, after declaring their intentions.

Mr. MORRISON was willing to permit township and county offices to be held by foreigners; but thought this was not the proper place. If the gentlemen from Wayne would bring it up at the right time he would support him.

The motion to reconsider was agreed to.

Mr. WALKER moved to amend Mr. BACKUS' amendment by inserting after "State," the words "for eligibility to which, no other test is applied in this constitution."

Mr. BAKCUS was opposed to the amendment. His proposition was simple and clear, while this was vague and uncertain. Gentlemen should be disposed to allow more than they seemed willing; they were afraid to carry out the principle. They were willing to give the foreigners the small and paltry offices, and keep the others to themselves; they would give away the office of path master or that of justice of the peace, while the offices of dignity and trust would be kept out of their hands.

You give them the office of pound master, while the office of Governor you keep out of their reach.

Mr. CHAPEL—I do not think that anything more will be done to-day than talk about this matter, and I propose to say a word on the subject. I shall not look back upon the journals to see how I have voted heretofore, to endeavor to make myself consistent. I shall do what I know to be right, and I will not do what is manifestly wrong. I am disposed to be as liberal as any one towards our adopted citizens. I am willing to accord to them all just privileges; but I hold that they should take upon themselves some duties, before they are entitled to those rights. Shall we allow any person to come from Europe with all his prejudices—with his wealth; and exercise the influence that that wealth would give, in opposition to the best interests of the State? Shall we allow him to represent any portion of the State in this Hall, without requiring of him a conformity to our present rules, and an oath of allegiance to our common country? I am not willing to surrender our rights in this manner. He should at least take the oath of allegiance to the constitution of the United States, before entitled to hold high office under our State government. Is there any hardship in this? No sir; and I would ask the gentleman from Wayne why he is so remarkably anxious to insert this provision, which might defeat the constitution itself?

The gentleman's motives may be pure, but when native Americanism endeavored to form a party, in Detroit as well as elsewhere, what was sought, sir? It was to proscribe the adopted citizen who had taken out his papers according to the United States' law; and if that gentleman was opposed to it, I can only say that he is an exception to his party, for that standard of discrimination was raised and openly avowed by them. I am willing that the adopted citizen shall vote; but if any come here and do not wish to declare their intentions they ought not to hold office. I should be glad to have all vote at the adoption of our constitution who reside here, and those who come hereafter, at the end of two years; and that I think sufficiently liberal.

Mr. N. PIERCE hoped the matter would be settled. A good many foreigners voted

for him, and he wished to vote for them. If we had a Dutch Governor who could not talk English, it might be a little inconvenient; but he would vote in favor of the amendment. If men were allowed to come from Europe, and allowed to vote, they ought to be voted for; and I hope that will be engrafted in the constitution through the whole article. Gentlemen talk about their liberality, and stop half way; want to deprive large numbers of the privilege of being voted for. We have heard complaints that the poor Hollanders could not vote, could not be elected to any town offices, and that some few native citizens did just what they chose—did the whole business. If there should be a good, smart man—English, French, Scotch, Irish or Dutch—he should be in favor of him being a Governor of the State.

Mr. BUSH—I have been led to think of the old maxim, "consistency is a jewel." In looking over the journals I find the gentleman voted against striking out a provision requiring a person to be of a certain age before he could be an executive officer; now he tells us that if a man has a right to vote, he has a right to be voted for. It is but a few days since he voted on this question.

Mr. N. PIERCE—I have changed my mind; "circumstances sometimes alter cases."

Mr. BUSH—I am willing to concede there has been a remarkable change lately. A motion was made to strike out the restriction of thirty years as applied to a Governor; the gentleman from Calhoun and the gentleman from Wayne both voted against striking out; yet they tell us that those who vote should always be eligible to places of trust and profit; and it is strange to see the new born zeal for the foreigners to-day, after both have steadily gone against the privileges which their interests necessarily demanded. They have continually opposed every effort that has been made to give them rights that were deemed necessary and proper.

Mr. WILLIAMS—Who?

Mr. BUSH—I referred to Mr. BACKUS and Mr. PIERCE. Mr. PIERCE declared, in his late remarks, that we were adopting a provision that would violate the laws of Congress. Sir, it is to make this constitution odious that this course is taken. I do

not think that they will steal away democratic thunder. They may take all they can; they may endeavor to make some capital out of their pretended friendship, but I do not think that it will avail them any thing. They may learn that the policy that is attempted to be gained without merit, may be lost without a crime, except there is some sincerity attached to it. I am in favor of giving to every white male inhabitant above the age of twenty-one, residing here, and who has declared his intentions, the privilege to vote; but I am opposed to throwing down every rule that has been considered salutary. Neither the gentleman from Calhoun or Wayne is as liberal as I wish to be, and for proof I refer them to the journal.

Mr. N. PIERCE—I have had but one principle and one policy. I am willing to go as far as the gentleman himself will go: take the word "white" out of the constitution, and make every male inhabitant eligible to all the offices. I do not expect to be a candidate myself; and for those who do there will be plenty of competition. The foreign vote must be numerous pretty soon, and yet the gentleman charges me with being illiberal, and at the same time I offer to do more than he does. I thought that one system of policy would be pursued throughout the State, yet the north have double and treble the representatives of the south. The foreigners votes are in the north; and gentlemen want to get their votes, yet not let them be candidates; and the gentleman from Ingham can stand up and say he is more liberal than I am. I would ask where it is? Let him show his faith by his works.

I wonder at gentlemen, whom we may call the fathers of the foreigners, now stopping short; if they are their rights, give it to them; do it, or don't. If you make them citizens, make them so to all intents and purposes. A Dutch Governor might do very well; our Governors have not been perfect, and he might govern so that there might be no complaint.

The question then recurring upon Mr. BACKUS' amendment,

Mr. BAGG moved a call of the Convention, which being sustained, and the roll being called, there were absent without leave, Messrs. P. R. ADAMS, ALVARADO

BROWN, BURNS, DANIELS, DESNOYERS, HIXON and KINNE.

On motion, all further proceedings under the call were dispensed with.

Mr. BACKUS' amendment was then disagreed to by the following vote:

YEAS—Messrs. Axford, Backus, H. Bartow, Asahel Brown, Carr, Chandler, Church, Comstock, Cook, Crary, Eastman, Edmunds, Gale, Graham, Green, Harvey, Hascall, Lee, Lovell, Mason, Mowry, Newberry, Orr, N. Pierce, Rix Robinson, Sullivan, Wait, Webster, Wells, White, Williams, Willard, Witherell, Woodman—34.

NAYS—Messrs. W. Adams, Alvord, Anderson, Arzeno, Bagg, Barnard, J. Bartow, Beardsley, Beeson, Britain, Ammon Brown, Bush, Butterfield, Chapel, Choate, J. Clark, Conner, Cornell, Danforth, Desnoyers, Dimond, Eaton, Fralick, Gardiner, Gibson, Hanscom, Hart, Hathaway, Kingsley, Marvin, McLeod, Moore, Morrison, Mosher, O'Brien, J. D. Pierce, Raynale, Redfield, Roberts, Robertson, E. S. Robinson, M. Robinson, Skinner, Soule, Storey, Sturgis, Town, Van Valkenburgh, Walker, Warden, Whipple, President—52.

The question then being upon committing with the instructions, which, as amended, were as follows:

"In all elections, every white male citizen above the age of twenty-one years, who shall have resided in this State three months next preceding any election; every white male inhabitant of the age aforesaid, who was permitted to vote under the provisions of the previous constitution of the State; and also every white male inhabitant of the age aforesaid, who shall have resided in the State two years and a half, and declared his intention to become a citizen of the United States; and every civilized male inhabitant of Indian descent, of the age aforesaid, not a member of any tribe, who shall be a native of the United States; and every white male inhabitant of the age aforesaid, who shall have been a resident of this State on the first day of January, A. D. 1850, shall be entitled to vote at such election: *Provided*, The last mentioned persons shall have declared their intention to become citizens of the United States, pursuant to the laws thereof, at least six months next preceding such election; but no such citizen or inhabitant shall be enti-

ted to vote at any such election, unless he shall have resided in this State three months next preceding such election, nor in any township or ward, unless he is an actual resident thereof, and shall have resided therein for ten days next preceding such election;"

The same prevailed by the following vote:

YEAS—Messrs. W. Adams, Alvord, Anderson, Arzeno, Baggs, Barnard, H. Bartow, Beardsley, Britain, Alvarado Brown, Bush, Butterfield, Chapel, Choate, Church, J. Clark, Conner, Cook, Cornell, Crary, Danforth, Desnoyers, Eaton, Edmunds, Gardiner, Gibson, Graham, Hanscom, Hart, Hascall, Hathaway, Hixon, Kingsley, Kinne, Lee, Marvin, McLeod, Morrison, O'Brien, Orr, J. D. Pierce, Raynale, Redfield, Roberts, Robertson, E. S. Robinson, Rix Robinson, Skinner, Soule, Storey, Sturgis, Sullivan, Van Valkenburgh, Walker, Warden, Whipple, Willard, Withereil, President—59.

NAYS—Messrs. Axford, Backus, J. Bartow, Beeson, Ammon Brown, Asahel Brown, Carr, Comstock, Daniels, Dimond, Eastman, Fralick, Gale, Green, Harvey, Lovell, Mason, Moore, Mosher, Mowry, Newberry, N. Pierce, M. Robinson, Town, Wait, Webster, Wells, White, Whittemore, Williams, Woodman—31.

On motion of Mr. CORNELL, the Convention adjourned.

MONDAY, (36th day,) July 22.

The Convention met pursuant to adjournment, and was called to order by the PRESIDENT.

Prayer by the Rev. Mr. SANFORD.

REPORTS.

Mr. WHITTEMORE, from the committee on the elective franchise, to whom was referred the article entitled "Elections," with certain instructions, reported the same back amended accordingly.

Mr. WOODMAN reported: The committee appointed under the preamble and resolutions adopted in this Convention on the 15th inst., have instructed me as their chairman to make the following report: That they have conferred with and selected the Hon. H. T. BACKUS, of Wayne, who has consented to deliver an eulogy on

the life and public services of General ZACHARY TAYLOR, late President of the United States. And your committee would recommend Saturday, the 27th inst., at 2 o'clock, P. M.; and would respectfully solicit the use of this Hall for the occasion.

Mr. FRALICK moved to strike out "2 o'clock," and insert "7 o'clock."

Mr. WOODMAN said it was expected by the citizens that two o'clock would be the time appointed. There would be many persons in from the country. If the amendment should be sustained, many would be debarred from attending. Mr. W. did not think that their constituency would object to the Convention giving up the use of the Hall in the afternoon on such an occasion.

The motion to strike out was lost, and the resolution was adopted.

MOTIONS AND RESOLUTIONS.

Mr. McLEOD offered the following:

Resolved, That a select committee of seven be appointed to draft and report as early as practicable the form of a general incorporation law, to be engrafted in the revised constitution.

Mr. McL. had but one word to say. On looking over the session laws of this year, he had found 126 acts of incorporation. Careful examination of the expense of legislating since we became a State, will show that each act and resolution costs \$250, making last year \$31,500. As delegates had assembled in State Caucus to stop up the leaks of the ship of State, and as there was no leak which had used up the public money as those corporation acts, he had offered this resolution for the consideration of the Convention. He thought the next Legislature would not have time to attend to this matter.

We have (said Mr. McL.) the Chief Justice and many gentlemen learned in the law among us, and I think we should have a general incorporation act engrafted in our constitution; but that it might have the consideration of the members of the Convention, he moved to lay the resolution on the table; which was agreed to.

Mr. HANSCOM moved to amend the 34th rule by striking out "ten" and inserting "twenty," so that the rule will read: "The ayes and noes may be called for by twenty members."

Mr. RAYNALE was opposed to altering the rule so as to require so large a

number to call the ayes and noes. Perhaps in the hurry of business the ayes and noes might be refused when they ought to be recorded. It might be dangerous.

Mr. HANSCOM hoped it would prevail. There was no probability that any exigency will arise in which twenty members would not be found to sustain the call. The experience of the past few days must convince every member that there had been a useless waste of time by calling the ayes and noes on unimportant questions, intimating a species of captiousness in the Convention which should be checked. The rule of one-fifth was adopted in the Legislature, and was found a salutary rule. He believed that during the last two days one-third of the time had been taken up in calling the ayes and noes.

Mr. MORRISON was of opinion that, instead of losing time by calling the ayes and noes, time was saved by bringing the Convention to a decisive vote. Under the call for the ayes and noes, members endeavored to know what the question was.

Mr. KINGSLEY hoped the rule would be changed. Look at the proceedings of the last two days; he was ashamed of them. The time had been foolishly taken up. It may be proper on important questions to call the ayes and noes, but it was not proper to occupy the time by calling them on trifling questions. Who (said Mr. K.) is going to look over this lumber to see how members voted on those trifling questions? When a member calls for the ayes and noes, it should not be sustained except on important matters.

A division of the question was asked, but two-thirds not voting to strike out, the amendment did not prevail.

On motion of Mr. CHURCH,

Resolved, That the committee on printing be instructed to examine into the state of the publication of the debates of this Convention, and to make arrangements, if necessary, for their earlier issue.

Mr. HANSCOM moved to amend rule 8, by striking out of the second line "one hour," and inserting "five minutes," so that the rule shall read: "No member shall speak more than twice on the same question, nor more than five minutes at any one time, without leave of the Convention, nor more than once until every member who chooses to speak shall have spoken."

Mr. VAN VALKENBURGH moved to strike out "five" and insert "twenty."

Mr. COOK said it must be apparent to every member that if we go on as we have done for the last two weeks, we may have to sit here till snow time. There cannot be any subject now requiring lengthy discussion, except the resolution offered by the gentleman from Calhoun, [Mr. Crary,] on the judiciary system; and during that it may be suspended.

The motion to strike out "five" and insert "twenty" was lost.

Mr. RAYNALE moved to strike out "five" and insert "ten."

Mr. ALVORD would ask what was the object of the amendment?

Mr. HANSCOM—To save time.

Mr. ALVORD—We have very few speeches over ten minutes in length. I think this is fooling away time. It will suppress all debate. What person can express his views on any important question in five minutes? It seemed like a gag law. He was not disposed to take up the time of the Convention, but he was opposed to this amendment to the rule.

Mr. WILLIAMS—The time occupied by each speaker was noted by the gentleman from Berrien the other day. If he will refer to his list, he will find it was the short speeches which did the mischief.

Mr. HANSCOM—If gentlemen want to use this Convention to practice public speaking and learn to debate, it may aid them by inducing them to condense their speeches.

Mr. VAN VALKENBURGH—My friend and colleague [Mr. HANSCOM] has occupied as much time as any one on this floor. If any one has made long speeches, he has. I have listened to them with pleasure. I hope no stopper will be put on him, but I hope he may continue to enlighten the Convention.

Mr. COOK said he would assure gentlemen that any speech over five minutes did more harm than good.

Mr. BRITAIN said that of thirty-seven speeches which he had timed, but few exceeded five minutes; there was one of eleven minutes. The one of eleven minutes was by the gentleman from Washtenaw, on an important subject.

Mr. KINGSLEY—I move that speech be struck out.

The motion to strike out "five" and insert "ten" was lost.

The yeas and nays were called for by Mr. CRARY, and the amendment to the rule was not adopted—two-thirds not voting in the affirmative.

Mr. CHURCH moved to amend the 8th rule by striking out "one hour" and inserting "ten minutes."

Mr. C. said—Mr. President: I am not myself very particular as to the ten minutes on the one hand, or fifteen on the other; but the bill of time kept by the gentleman from Berrien is a good guide to us. I recollect (said Mr. C.) the speech of eleven minutes. The gentleman expressed all his views on the important subject. If any gentleman has not the faculty to deliver his views on any important subject, he will be allowed a few minutes over.

Mr. N. PIERCE moved to amend by inserting "fifteen minutes." Lost.

The amendment offered by Mr. CHURCH was adopted by a two-thirds vote.

The article entitled "Mode of amending and revising the Constitution" was read a third time, passed, and referred to the committee on arrangement and phraseology.

The Convention having reached the order of unfinished business, resumed the consideration of the resolution accompanying the article entitled "Elections."

Mr. WOODMAN moved to reconsider the vote by which the words "for and against the said separate amendment" were stricken from the 15th and 16th lines.

Mr. CHURCH would state that if the motion to reconsider should prevail, he would move a further amendment to the 15th line, so as to read, "that at this election, if a majority of all the votes given on this amendment."

Mr. VAN VALKENBURGH believed the amendment which had been inserted instead of the original article would defeat the object of the resolution. It was not what the friends of the colored man wanted. He had supposed, when the motion was made by the gentleman from Calhoun, [Mr. CRARY,] to strike out and insert, that the gentleman was the friend of the colored man, and of the free soil party. The gentleman moved to strike out "citizen" and insert "inhabitant." This is not what the friends of the colored man

want, or have asked at our hands; they ask for the privilege of voting for their officers; for those who are to tax them and exercise authority over them. They do not ask for citizenship. The gentleman from Calhoun [Mr. CRARY] says he was opposed to the measure. I believe it was an evidence of the adroitness of the gentleman, marching about and leading the Convention to adopt a measure that they will repudiate.

Shall we submit this in a form obnoxious to all the people of the State? Let us not hold the promise to the ear and break it to the heart. Let us be just and fair to ourselves, our citizens and the colored man. Whatever may be the result of the submission of this measure to the people, let us act honorably and above board; let us submit it in the shape the friends of the colored man ask it.

I apprehend (said Mr. VAN V.) it will settle the question, and lay out our free soil friends. I hope the amendment of the gentleman from Calhoun will be struck out, and the original article remain.

Mr. CRARY said—When I attempt to give anything to a person, I propose to do it at once, and not by halves. The provisions of this resolution were open to objections; it professed to refer to the consideration of extending the elective franchise to the colored male citizen. I wish to know how many colored male citizens there are in the State in contemplation of law. I do not know one in the county I represent. You may call them citizens who are not such in the eye of the law. All, or nearly all that are here are not citizens, as I understand it; they came from the southern States, and were slaves. I do not believe that there are fifty in the State that are citizens, under a proper definition. You hold out something which is nothing. They may vote for an officer, but not for levying taxes. It is only the privilege of voting for all officers that may be hereafter elected. He may go to the township meeting, but he will not be exempt from arrest in going to and coming from the same; but under the proposition I make, he is entitled to all the privileges. I say, if it is the will of the people of Michigan that he shall have the right to vote, he should stand on a par with the white man.

I am opposed to this, but I am not now disposed to give my reasons; but if they

have the privilege, I would put them on the same footing with the white population. When we speak of the word "inhabitant," we should be as liberal to them as to others to whom we have extended the liberty of voting.

Mr. WOODMAN did not see anything particularly objectionable in the statement of the gentleman from Calhoun, [Mr. CRAWFORD.] What he [Mr. W.] wanted was, that a majority of votes given on this resolution should prevail—not the whole votes given. He had said that he should oppose the resolution, but he wanted it to be sent out perfect, and that the votes given for and against the resolution should be taken into account on this part of the amendment to the constitution.

Mr. COMSTOCK hoped the motion to reconsider would prevail. He believed, under the restrictions as it now stood, the whole object the petitioners had in view would be defeated; and he hoped the section would be restored as originally reported, as this is what the people ask, and it is no more than just that it should be submitted without being encumbered with vague and indefinite ideas.

I listened with pleasure to the remarks of the gentleman from Macomb, [Mr. ROBERTSON,] the other day, when on the subject of admitting foreigners to the elective franchise; he was very eloquent in relation to granting this portion of inhabitants these privileges, and descanted upon the oppression they had fled from in leaving their native land, and urged upon us to be liberal in granting them these privileges. With this I am not disposed to find fault; neither did I dissent from the appeal made in behalf of the remnants of the savage tribes, who, he said, should be allowed the privilege of voting. After these appeals in favor of the oppressed, so eloquently urged by different gentlemen, and their great sympathy for their fellow men, I did hope to hear some word of consolation for that portion of the down trodden race—the colored population of our State who ask the boon of voting at our elections. But I listened in vain; not one word of encouragement for them. No sympathy for the oppressed of our own nation, who have sought an asylum in our State. Shall I state the reason? Simply, Mr. President, because they are "guilty of a skin not colored like our own."

And those gentlemen who claim to be the exclusive democracy—yea, the *progressive*—and shout to the top of their voices in favor of universal freedom and suffrage; and when called to submit the question to the people in relation to admitting to vote those born in our own land, and natives of our own soil, how their democratic hearts revolt at the idea of the ballot boxes being contaminated by even submitting the question fairly to the people. I ask that the subject may be fairly submitted to our constituents, unembarrassed, and without any technicality which is calculated to defeat its whole operation. While I am ready to admit to the elective franchise those who have fled from other countries, I will not, like the gentleman, refuse a fair submission to the people of the rights of another class of oppressed and down trodden of our land. Have not the men of color fled to us for protection? Then why deny the submission to the people upon fair grounds? It is said by one gentleman they are not citizens. In answer to this, I would say we are not to go to the State of Maryland or Virginia to define what shall constitute a citizen of the State of Michigan.

If the subject is fairly submitted to the people, and they decide against their being admitted to vote on the terms asked, then it settles the question. If we do our duty and the people reject it, we shall be free from censure. But let them understand and see plainly what they are asking, and then if the people deny them, it will be understood it is denied by the people, and not by this Convention.

Mr. BACKUS said he would go for a reconsideration of the vote, whatever his own opinions might be; and they were well known at home. He did not believe in the propriety of extending the franchise to the colored population; but he was disposed to allow the people to say whether they would mingle the two races in the elective franchise. He wished the people of the State to say "aye" or "no" on the question, that every quibble or doubt may be removed, and that the question shall be finally and forever settled.

I should wish, sir, (said Mr. B.,) that the motion of the gentleman from Oakland would embrace the whole article. There may some consequence follow from the

amendment of the gentleman from Calhoun. I wish the people to vote upon it with a full understanding of its bearings, so that the question may be forever set at rest. If there is equivocation in any part of the resolution, (and I think there is,) the question will not be settled. The qualifications of the colored people for the rights of voting should be finally determined when the resolution is acted upon. The basis of the motion of my friend from Oakland is equivocal. The question is, whether the people will allow the colored people to mingle in the elective franchise. I would meet it fully.

The motion to reconsider the vote was carried; and the question recurring on Mr. CHURCH's amendment, he withdrew it.

The question being on ordering the bill to a third reading.

Mr. SUTHERLAND would suggest for the consideration of the Convention, that in case the people should vote in favor of inserting this article in the constitution, there was no provision that those people should be included in any enumeration on which the apportionment should be made.

Mr. COMSTOCK moved to reconsider the vote by which all after the word "the" in the fifth line, up to and including "1851," was stricken out, and the words "the rights and privileges of an elector," inserted in lieu thereof.

Mr. VAN VALKENBURGH trusted it would prevail. The insertion of the word "inhabitants" was not so obnoxious; but the amendment in the fifth line would be so. Not a single petition asks this at our hands. The petition from Washtenaw prays that the elective franchise may be extended to every male colored citizen over twenty-one years of age. That presented by Mr. Comstock from Lenawee, asks that the elective franchise may be extended to colored persons—not the privilege of electors; that is, to hold office as well as voting—they have not asked this at our hands. Shall we kill the resolution here, and then send it out to the people to vote upon it? I hope the amendment offered by the gentleman from Calhoun will be struck out, that we may deal fairly with our citizens, friends to the colored men, and to the colored men themselves. It does not become us to send this mutilated article out to mark the friends of the colored men. I

hope the people will not meet members of this Convention, and say "you acted disingenuously; you acted so as to defeat the object of the resolution."

Mr. CRARY would ask whether, under this constitution and the article presented to the Convention, a colored man cannot be elected where there is no prohibition? Whether they cannot elect any colored man to any office except the office of Governor, and those prohibited?

Mr. VAN VALKENBURGH would answer, if that was the fact, as the gentleman alleges, then he has a right to vote for officers. He would ask whether a colored man could be voted for now, without being an elector? He cannot be elected to office.

Mr. CRARY—Except for prohibition, the people can take whom they please, white or black men, and elect them to office.

Mr. VAN VALKENBURGH apprehended not; and referred to Webster's Dictionary for the definition of a voter, to show that the position taken by Mr. CRARY was incorrect; that the right of voting conferred on a colored man would not confer on him the right of a citizen to hold office. The gentleman from Calhoun says, unless his amendment be adopted, the colored man cannot vote at a township meeting; and after this, he says he can exercise office in a town. He would ask the gentleman where he had received this doctrine? It is that they shall have the privilege of voting that we ask, not that they shall be voted for. The amendment of the gentleman is hostile to the wishes of the friends of the colored man. He has expressed his hostility to the adoption of the resolution. His amendment is a species of tactics to render the resolution a nullity.

Mr. BACKUS would suggest a few considerations to the gentleman from Oakland. He believed the amendments of the gentleman from Calhoun were such as the gentleman from Oakland wanted. They were such as he (Mr. B.) wished for. He objects to the term "inhabitant," and to the expression "all the rights and privileges of an elector".

Mr. VAN VALKENBURGH—I do not object to the word "inhabitant."

Mr. BACKUS resumed—He did not believe there was one colored person in the

State, a citizen. When they left the place of their vassalage they were property, not citizens. They are entitled to all the rights and privileges of the State from which they came, and those were the rights of slavery. The word should be "inhabitant," and not "citizen." The gentleman from Oakland would not succeed in his object unless that were incorporated.

What are the rights and privileges of a voter? Sir, the right to be elected. The gentleman would tie them down to the right of voting only. I would (said Mr. B.) extend to them the right of being voted for. If the people extend to the colored people the right of voting, they should be voted for.

Mr. J. D. PIERCE saw no object in submitting it to the people as it came from the hands of the committee. It says, "male citizens;" we have none such at the present time—it would allow none to vote. They would be just as well off after its adoption as now.

Mr. WILLIAMS—The gentleman from Calhoun says there is no colored citizen. He would like to put a question to the gentleman: Suppose a colored man, born and brought up, and entitled to all the privileges of citizenship in Massachusetts, should remove to this State; the constitution of the United States says, "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States." Now will the gentleman himself say, if he had a suit with such a man in the Supreme Court of the United States, which turned upon the question whether such a man was a citizen or not, will he say that it would not be decided against him?

He hoped the question on these amendments would be reconsidered. The practical result would probably be the same; but it is very manifest that the diction was changed, because it would admit now of misconstruction at the polls. It is insidious, unmanly, and if parliamentary, he would use a worse word. It is plain that it is designed to introduce expressions, and put the resolution in such shape that it may be most effectually used at the polls. Why not have it as the petitioners themselves want it?

Mr. HANSCOM—It is the same before and after the amendment. The object of

the amendment is to prevent the people who vote on the resolution from being hoodwinked; for practically the right of being voted for goes with the right of voting. Why not put it so? Why not say that they shall have all the privileges of electors, so that the people may know and understand the effect of it? The legal effect is precisely the same one way as the other. The object of the amendment is to advise the people especially as to the result of their action.

Mr. WILLIAMS asked for the yeas and nays thereon, and the same being demanded, the motion to reconsider was lost, as follows:

YEAS—Messrs. Arzeno, H. Bartow, J. Bartow, Britain, Asahel Brown, Bush, Chandler, Comstock, Conner, Daniels, Edmunds, Gale, Gardiner, Green, Hart, Harvey, Hascall, Hixon, Lee, Lovell, McLeod, Moore, Mowry, Orr, N. Pierce, Prevost, Redfield, Robertson, Tiffany, Van Valkenburgh, Wait, Walker, Webster, Wells, White, Whittemore, Whipple, Williams, Woodman—39.

NAYS—Messrs. W. Adams, Alvord, Anderson, Axford, Backus, Barnard, Beardsley, Alvarado Brown, Ammon Brown, Butterfield, Carr, Chapel, Choate, J. Clark, Cook, Cornell, Crary, Danforth, Desnoyers, Eastman, Eaton, Fralick, Gibson, Graham, Hanscom, Hathaway, Kinne, Marvin, Mosher, Newberry, O'Brien, J. D. Pierce, Raynale, Roberts, E. S. Robinson, M. Robinson, Rix Robinson, Soule, Storey, Sturgis, Sutherland, Town, Warden, Willard, President—45.

The resolution was then ordered to a third reading.

Mr. BRITAIN, by consent, presented the petition of Daniel Baker and 57 others, asking the insertion in the constitution of an article prohibiting the manufacture and sale of intoxicating liquors as a beverage; which was referred to the select committee upon the subject.

Mr. BARNARD, by consent, presented the petition of B. C. Curtis and 39 others, on the subject of convict labor in the State prison; referred to the committee on miscellaneous provisions.

The article entitled "State Officers" being taken up for consideration, and the question being on concurring in the amendments made in committee of the whole,

On motion of Mr. REDFIELD, the article was laid upon the table and ordered printed with the amendments.

The article entitled "County Officers and County Government" being under consideration, the amendments made in committee of the whole were severally concurred in.

On motion of Mr. BRITAIN, section 10 was amended by adding thereto the words "voting upon that subject."

Mr. EASTMAN moved to strike out section 9; which is as follows:

"No county seat, when once established, shall be removed until the place to which it is proposed to be removed shall be designated by a majority of the board of supervisors of said county, and two-thirds of the qualified electors shall have voted in favor of the proposed location, in such manner as shall be prescribed by law."

Mr. E. said it was his wish that said section be stricken out, and that nothing should be inserted in its place. From the frequent necessary changes incident to a country rapidly filling up with inhabitants, he thought it better to be left open to future legislation to accommodate matters to the unforeseen and actual wants of the people. But if it was deemed best by this body that some rule be adopted in our fundamental laws to regulate these matters, he would offer a substitute obviating the serious objections he entertained to the section he desired stricken out, which was:

"The board of supervisors shall determine when the county seat of the county ought to be removed, and shall notify the Governor of the State of such determination, whose duty it shall be forthwith to appoint three competent and disinterested persons, not residents of the county, to re-locate the same; which location may be confirmed or rejected by a major vote of the qualified electors given on that subject at the next general election held thereafter, in such manner as may be prescribed by law."

He [Mr. E.] had attempted, when this subject was under consideration in committee of the whole, to give some reasons for having this section modified in its features. There are two objectionable points in it as it now stands—the one which requires the board of supervisors to establish the place to which it shall be removed,

and the other that makes it necessary to obtain two-thirds of the electors to concur in the place so fixed by the board. It would be, obviously, very difficult for even a majority of a board of supervisors to agree upon any one point; they may readily agree that it ought to be removed; but from the jealousies that will spring up among the rival points around or about the place near where common consent dictates it should be located, perhaps three or four of the board, disappointed because it cannot be exactly where they wish it to accommodate their constituents, will be induced to go against the point proposed, thinking to get it for their own point at some future time. These, with the devoted friends of the old location, will generally be able to defeat the fixing upon any point by even the majority of the board. Now, to obviate this difficulty, I propose, in the substitute submitted, to require the supervisors to determine when the site should be removed. If they are called to act upon this simple proposition alone, they will act honestly to carry out the known wishes of their constituents—they can agree. I propose then to have three disinterested men, non-residents of the county, to come and examine the situation of the whole county, hear all the different arguments of those who claim the point, pro and con, and locate that point which in their judgment will best accommodate the whole people of the county, both now and prospectively. By this means the point is designated, and fairly designated, without interest, prejudice or jealousy. The people then of the whole county are called to reject or sanction their doings—which ends the matter.

Sir, I consider the section, as it now stands in this article, an iron rule—a complete bar on the removal of any county seat hereafter; however far removed it may be from the centre of a county, in a business view or geographically, it can never be removed. And from the manner in which all our new counties will probably be settled hereafter, from south to north, like a line of prairie fire, they will be settled on their south border first, and the county seat will be of course located in the south end, and there it must remain, time untold.

It is to provide a fair chance for these

new counties, as well as for such as have the misfortune to suffer with a one-sided location at present, like the one I have the honor to represent on this floor, I ask for some modification of this section. It may be said that the doings of commissioners in these matters are liable to objection—that they have been bought or corrupted, and have abused their trust, &c. I admit, sir, that when their action is final, it is objectionable—extremely so; but when, in the manner I have proposed, their doings are to be submitted to the vote of the people, to be approved or condemned, it does seem to me to do away with all the objections urged against them. I simply introduce them that the point may be decided upon free from interest, bias, prejudice or competition, and that the vote of the people may be brought to bear upon one point alone.

I do not feel tenacious of any particular mode or manner of accomplishing the object I have stated. It is to give the people, in a fair method, by a majority vote, the control of their own interests. Our country is so rapidly advancing, interests changing, business turning to new channels, that I would prefer to leave this matter open for a while yet to the Legislature—to the people—that they may settle each individual case according to the rights of the case presented. But I will offer the substitute.

Mr. N. PIERCE was opposed to striking out. He did not know of any objection to the people of a county fixing their own county seat. It seemed as reasonable as it would be for him to have the right to fix the site of his own farm buildings. The object is to keep out these applications from the counties to the Legislature, which are attended with a great deal of expense, as in the case of Shiawassee last winter. We know that these agitations arise every session of the Legislature, on the removal of county seats. Not one quarter of them are removed. The supervisors and the people are better able to judge than the Legislature. If two-thirds of the supervisors are to decide on it, he [Mr. P.] would have no objection to make it a majority vote by the people. The people are to be taxed for their county buildings, and they should have the privilege of saying whether they will be taxed or not.

Mr. VAN VALKENBURGH thought if this rule were adopted it would be difficult ever to remove a county seat. He had proposed to insert a majority instead of two-thirds; but the amendment of the gentleman from Ottawa was preferable. People go and settle in a new county without reference to the centre; the consequence is, the county seat is not located there in the first instance. The proposition of the gentleman from Ottawa is not analagous to the case of a person fixing the site of his barn. The supervisors of the county must move in the matter; then the Governor appoints commissioners to designate the site; then the people decide. It appeared to him that this was the least objectionable course.

Mr. CHAPEL was opposed to the Governor having any thing to do with the matter of county seats. It is the business of the people of the county. He did not see why it should be brought to the Legislature. As it stands, it conflicts with the objects of what the people want, and with their notions of justice. It requires two-thirds to decide on its removal. He would have it read "two-thirds of the supervisors and a majority of the people."

It is well known that where difficulties arise, the county seats had been fixed at an early day; when the counties are settled the difficulties arise. The influence of the county seat, with its officers, is about one-third, in relation to the county. If two-thirds of the supervisors decide, a majority of the people come in and ratify. This indication of the wishes of the people should be sufficient. It is equal to saying a county seat shall never be removed, to say that two-thirds of the people shall be in favor of it before it can be removed. The power and influence in the hands of the people at the place where it is located, will be sufficient to prevent its removal. It is illiberal and unjust.

He would state a case in point: Mr. Clemens originally settled Macomb county, and established, for his own convenience, Mt. Clemens as the county seat. It is situated on one side of the county. He would ask, if the people of Macomb county wished to remove the county seat, how can they get a two-thirds vote for it, in opposition to the influence of Mt. Clemens? It is like saying it shall never be removed.

Mr. CHAPEL concluded by moving to amend the section by striking out "two-thirds" and inserting "a majority;" and also by striking out "a majority" and inserting "two-thirds."

Mr. CHURCH supported the amendment offered by Mr. CHAPEL. It would be beneficial to all parts of the State, especially to the new counties.

We all know (said Mr. C.) that the board of supervisors, as constituted at present, and as proposed to be constituted, is not a representation of population, but of territory. One of the supervisors of our county represents 3,500 people, another represents but little over 100. Now, it is not right that those supervisors should have an equal voice and vote in the determination of this matter, so as to influence the expenditure of money to come from the whole population; and the county seat should have reference to the whole population. When a county seat is once located, and pecuniary interests established, and investments made, it is somewhat of a serious matter to remove it; and it should not be carried out without some serious and deliberate action. The bare movement to remove a county seat is injurious to the inhabitants of the place. It should not be carried out except in some safe way, in which the inhabitants at the county seat should not be injured.

I think (said Mr. C.) that the site should be designated by two-thirds of the board of supervisors to be right, and suited to all. It is not right that a board of supervisors, constituted as I have said, should have the control, or a majority of the inhabitants deprived of the control. In a bill introduced in the last Legislature by a Representative from our county, it was proposed to give, on this question, (the removal of a county seat,) one vote to the supervisor of every organized township. Where he represented four townships, he would emphatically, as I said here before, represent wood, rocks, wild-cats and wolves. This will go as far as we can go to meet the convenience of other counties, and at the same time accommodate the gentleman from Ottawa. He can have no objection when two-thirds of the supervisors agree to remove, and a majority of the people agree to the removal. A bare majority of the board of supervisors should

not disturb the county seat. When two-thirds, or any other safe number have indicated a point for popular action, a majority of the people ought to decide.

Mr. MOORE observed that no one subject could excite more strife and ill-will in a county than an attempt to remove a county seat; yet the removal might be desired by the people of the county. He believed the amendment should be altered. He thought it would be a wholesome provision, after the site is designated by the commissioners or supervisors, that the people should vote on the question. Perhaps two-thirds of the supervisors was too great a number; he would propose three-fifths. There could be no great objection to the substitute, which provides that the Governor shall appoint three disinterested men. The county seat would not be disturbed in the first place, unless a majority of the supervisors were in favor of it. The commissioners would go there disinterested, and after the designation of the site the people could decide. It was desirable that some alteration should be made in the section, under the circumstances; as it now stands no county seat could be removed.

Mr. CHAPEL modified his amendment, substituting "three-fifths" for "two-thirds."

Mr. C. would merely further remark that a county seat is invariably established before a county is settled; and when a county is settled, it may be necessary to move it; but here is a clause that cuts it off for fifteen years. All the influences of the first settled portion will be against it. The amendment he offered was liberal enough; a majority of the people would be on the side nearest to the old county seat.

Mr. HANSCOM was in favor of the first proposition of the gentleman from Macomb, [Mr. CHAPEL.] If anything operated injuriously to the State it was this eternal contest about county seats. Their business and growth was not only retarded, but money was taken from them in contending on this question. He believed a majority of the people should have the control; but as to setting the ball in motion—the incipient movement—that was another question entirely. The supervisor who represents one hundred inhabitants from the most extreme township, has as much power as the supervisor representing the most populous township. It would be

proper to require two-thirds of the board of supervisors to take the incipient steps. He could refer to many counties where two-thirds of the board of supervisors did not represent one-third of the population of the county. He was in favor of the first proposition, for the simple reason that there should be some reasonable mode of setting the ball in motion.

Mr. COMSTOCK said in the southern tier of counties they had had much experience on this subject. Had that question been settled on the principle of the amendment offered by the gentleman from Macomb, great expense would have been saved. When a county site is designated by the supervisors, a vote of three-fifths is all that should be required. When you get a vote of three-fifths of the board of supervisors, it will be a fair expression of the wishes of a majority of the electors. We must not allow the Governor to send his commissioners; we have had enough of that.

Mr. WILLARD would suggest the propriety of putting it at two-thirds. In the county from which he came, and the county directly south, two-thirds of the supervisors did not represent one-fifth of the population. He was in favor of two-thirds, and would move so to amend the amendment.

Mr. STURGIS believed it would be proper to require at least two-thirds of the supervisors to agree about the removal of a county seat, for this reason—and he spoke from a knowledge of his own county matters; that a supervisor from a town may go for or against the removal on account of his residence on one side or the other of a township. The relative position of the inhabitants to a county is liable to change. If the settlements are in the north, it will be removed there; then, by increase of settlements in the south, and by a change in the board of supervisors, it would be removed back again. What he would try to guard against, was the frequent removal of county seats; it unsettled the value of property, and was ruinous to those settled near county seats. There could be no danger in requiring two-thirds of the board of supervisors to call for a vote of the people. If two-thirds agree, it will be a fair indication that the location will be permanent.

Mr. SULLIVAN remarked that he was

in favor of changing the location of county seats when proposed by a majority of the supervisors, and when a change was assented to by a majority of the people. He was totally opposed to requiring the assent of two-thirds of a board of supervisors to change the location of a county seat, or rather to submit a proposition to that effect to the people. It was, in his estimation, nothing more nor less than a declaration of this Convention that the location of a county seat shall never be changed. It is putting it in the power of one-third of the supervisors, representing, as has been justly remarked, territory and not population—the delegates of towns containing perhaps not one-tenth of the whole population of the county, to fix the location of a county seat where it now is, perpetually. It is putting the majority eternally at the feet of the minority. The substitute of the gentleman from Ottawa furnishes every security that can reasonably be required against the hasty, inconsiderate and ill-judged removal of a county seat location. It requires, first, the assent of a majority of the towns; secondly, the consent of a majority of the inhabitants.

The expense of changing the location of a county seat, which has been adverted to by several gentlemen on this floor, affords the best guaranty that it will not be changed unless the public good requires it. It will often happen, when a proposal is made to change the location of a county seat, that a variety of towns are contending for the location. That makes it next to impossible that two-thirds or even a majority of the board of supervisors should agree upon any one point. The substitute of the gentleman from Ottawa, it appeared to him, was much the most judicious; to let the location be fixed whenever a majority of the board of supervisors desire it, or by commissioners, and then let the people confirm or reject their location as they shall see fit. The expense that has heretofore grown out of controversies respecting the location of county seats, has been incurred under an entirely different system; it was when the change of location was determined upon by the Legislature, a body of men not having any means of acting judiciously upon the subject. The matter can be settled under the new dispensation with comparatively little trouble or expense.

MR. WALKER did not like either of the propositions. If two-thirds were proper to order the vote, it would be done when very few of the inhabitants might require it, and afterwards it might not be done when they did require it. Suppose the county seat to be in the north-west corner, with a large population, and the other parts of the county sparsely populated; you may get two-thirds of the supervisors to vote for its removal. Again, a county may be settled in every corner, and a sparse population in the centre; the supervisors of the most populous parts might represent nine-tenths of the population, and yet not get two-thirds of the supervisors to go for it.

Mr. CHAPEL, in reply, recapitulated the arguments in favor of the amendment, and contended that, under the provision as it stood, however great an interest the people might have in its removal, they would never be able to accomplish it. If two-thirds of the supervisors and a majority of the people be not sufficient, let us fix a clause in the constitution saying the county seat in counties organized shall never be removed; and in new counties where the stake is stuck, it shall forever remain. A few office holders, and a few lawyers that would skin a flint, would lay an embargo upon it.

The proposition of Mr. WILLARD was adopted, inserting "two-thirds" instead of "three-fifths."

The question being on the amendment as amended,

Mr. WHITE asked for a division of the question.

The question on striking out "a majority" and inserting "two-thirds," was agreed to.

The question being on the second clause of the amendment,

Mr. ROBERTSON demanded the yeas and nays; and the same being ordered, the motion to strike out "two-thirds" prevailed, as follows:

YEAS—Messrs. W. Adams, Alvord, Anderson, Arzeno, Barnard, H. Bartow, Beardsley, Beeson, Britain, Alvarado Brown, Ammon Brown, Asahel Brown, Bush, Butterfield, Chandler, Chapel, Church, J. Clark, Comstock, Conner, Cook, Cornell, Crary, Danforth, Desnoyers, Eastman, Eaton, Fralick, Gale, Green,

Hanscom, Harvey, Hascall, Hathaway, Kinne, Marvin, McLeod, Moore, Morrison, Mosher, Mowry, Newberry, Orr, J. D. Pierce, N. Pierce, Raynale, Redfield, E. S. Robinson, M. Robinson, Soule, Storey, Sturgis, Sullivan, Tiffany, Town, Van Valkenburgh, Walker, Warden, Webster, Whipple, Whittemore, Williams, Willard, Woodman—64.

NAYS—Messrs. J. Bartow, Choate, Gardiner, Hart, Hixon, Kingsley, Lovell, O'Brien, Prevost, Roberts, Robertson, Rix Robinson, Skinner, Wait, Wells, White, President—17.

And the words "a majority" were inserted in lieu thereof.

The question recurring on Mr. EASTMAN's motion to strike out,

Mr. EASTMAN said, in answer to the question proposed by my friend and colleague from Kent, whether I can reasonably ask for more than this section now provides?—indeed, sir, I do. I can, in accordance with the principles of right, equity and justice—in accordance with the very first principles of our institutions—in accordance with the primary rules of the majority system, laid down as the basis of our government in matters where the direct rights and interests of a community are all equally concerned. Who ever heard, in this age of progress in republican principles, of granting to the one-third the power of dictating to and controlling the rights, privileges and direct interests of the two-thirds? If we were granting privileged corporations, bestowing a bonus out of the people's money, giving outright, exclusive privileges of money-making operations, then I could divine the propriety of requiring a vote approximating unanimity more than that of a majority. But, sir, in a matter of right, of interest, convenience simply, when all are equally involved, I cannot see the propriety of confiding the power to a minority. No sir—if this is democratic doctrine, then I am no democrat.

But the argument is: pin this matter; fasten it beyond the reach of agitation hereafter; it has cost the State dollars and cents already; it is a vexed question in various sections; it even breaks down party lines; party discipline is trodden under foot. All this is undoubtedly true; but, sir, what does it prove? Why, sir, it proves

conclusively, to my mind, that the first location, or even the second, has not been always found convenient for the people in those counties where it has been located early, before they were fully settled and the future spot could be determined, where it would best subserve the interests of the whole people.

The reason of so much wrangling, twisting and turning is occasioned by the furious efforts of those who are luxuriating in the enjoyment of a privilege that a majority of the people are about to take from them for their own eating; their action, their opposition, the art and intrigue they make use of to retain the bone they have too long enjoyed, is not singular. Witness the squealing all over the country when the official teat is removed. We hear it in days of recent date, as well as in those long gone by. It is not singular, or uncommon. But what republican ever thought of restraining this privilege of the people, by giving the controlling power into the hands of an aristocracy of one-third, aided by the influence of the official corps of the same community? On the same principle might we not adopt a one man power to take care of those interests that directly affect the people, because it opens room for agitation? It costs us something to settle these matters right; the masses are troublesome, and they had better be governed by the few—it is cheaper.

But, sir, expense has been urged. Will the gentlemen of this Convention calculate for a moment the expense of a people of the east half of a county densely populated; travelling eighteen or twenty miles beyond the centre of a county, to the extreme west limit of it, for all time to come, and for all their county business, to their records, attending courts as jurors, witnesses, &c., and see how it will foot up; and then compare it with a few hours legislation to settle this matter right. Now, sir, this is the fact in my own county, and must be forever if you engraft this section in your fundamental laws. The two-thirds—yes, the four-fifths—will be held in duress by the influence of the one-fifth, aided by wealth and power; the power of office-holders. Suppose the board of supervisors is full, composed of men from every surveyed township in the county; suppose they represent territory rather than

population—where would they reasonably locate the county site? At or near the centre, most likely; and I would ask in what more proper place, in ninety-nine cases in one hundred, can it be located? Are there any who can be greatly injured by such an act? There are new counties yet to be organized in this State, more in number than there are now organized, and with their consequent one corner, one end, or one sided sites; and in them must forever be extended your new progressive republican rule to let the one-third or one-fifth hold and luxuriate in the enjoyment of an accidental boon, to the injury, inconvenience and expense of the four-fifths. If this will be extending equal justice, equal privilege to all by your fundamental laws, then I do not figure right; if this is to be the democracy of the coming age, then it will not be mine.

I would ask the gentlemen who have spoken upon this subject to examine for a moment the provisions of the substitute I propose, and witness the checks it contains, and the equal security it extends to all classes and interests. The board of supervisors are to determine when a county site is so situated that it ought to be removed from where it then is. Suppose this board do not exactly represent population, but territory; then they say the present site is not rightly located, geographically. Next, three disinterested men are brought in to say where it should be located. Here you have the judgment of a tribunal rendered devoid of interest, except to promote the general interest of all. No competition, no jealousy or rivalry comes into play; they establish the place—they may re-locate it in the old place again, if in their judgment that is the best place. And then, their doings are submitted to a majority of the people—the whole people, to approve or reject the proposed location. Can there be wrong done to the people in this procedure? Each succeeding action is a check on the preceding, and a majority of the electors corrects the whole. This last check, it has been truly remarked by the gentleman from Macomb, [Mr. WALKER,] gives the older settled portion of the county, around the old location, decidedly the advantage, as being universally the most populous.

I am not, sir, very well acquainted with

the location of the county sites in the various counties in the State. I happen to know something of those in the counties of Kent and Clinton, and can well understand the why and the wherefore of the gentlemen who so ably and honorably represent these localities. I do hope that this honorable body will look at this question as to its bearings on the new counties yet to come; on each one in the State, collectively and individually, and more particularly on the general principle of equity and justice, that self-interest in any case may not come into the consideration, to give sanction to an unequal and and unjust rule. I would call the attention to one feature of the substitute proposed; it is that the expense of all the agitation and contention that may hereafter arise in these heretofore vexed questions for Legislatures to settle, is to be borne by those who are directly interested—by those who produce it. The whole State, the peaceable of other precincts, are undisturbed by their doings, either in purse, word or deed. I therefore hope, sir, that section nine will be stricken out, and the substitute adopted, whereby the rights of the majority will be sustained, and the aristocratic, anti-democratic two-thirds or four-fifths doctrine, shadowed forth in the section, crushed.

The motion of Mr. EASTMAN to strike out section 9 was then lost.

Mr. CORNELL moved to amend section 8 by inserting in the first line, after "new," the words "and change the boundaries of;" and the same prevailed.

On motion of Mr. BUTTERFIELD, the section (8) was amended by inserting after "townships," in second line, the following: "Provided, no township heretofore organized shall be divided without the sanction of a majority of the inhabitants of the territory proposed to be set off."

Mr. ARZENO offered the following substitute for the section:

"The board of supervisors of all organized counties shall have exclusive power to organize new townships and to divide townships; but no new township lines, other than those made for the purpose of organizing new townships, shall be valid unless the majority of the voters of the township whose territory it is proposed to take shall agree to the same, in a manner to be provided by law; and no new town-

ship shall be organized of less dimensions than the United States survey thereof."

On motion of Mr. CRARY, the section (8) was further amended by striking out "of," in second line, and inserting "or repair of roads or."

Mr. BACKUS moved to amend by striking out "United States survey thereof," and inserting in lieu thereof the words "less than six square miles." He afterwards modified the same by inserting "thirty-six" in lieu of "six."

Mr. BACKUS subsequently withdrew his amendment and substituted the following: add at the end of the section, "where such surveys exist."

Mr. EASTMAN moved to amend the amendment by adding "and not divided by meandered streams"

Pending which, on motion of Mr. CRARY, the Convention adjourned.

Afternoon Session.

The Convention was called to order by the PRESIDENT.

The consideration of the article entitled "County Officers and County Government," was resumed.

The question being upon Mr. EASTMAN's amendment, it did not prevail.

The amendment proposed by Mr. BACKUS was not agreed to.

On motion of Mr. REDFIELD, the last clause of the section, (8,) being all after "counties," in the third line, was stricken out.

Mr. ARZENO then withdrew his substitute for the section.

Mr. CORNELL moved to amend by adding to the same section as follows: "The compensation of members of the board of supervisors may be fixed by law; but shall never exceed one dollar and fifty cents each per day."

Mr. C. said if the amendment should be adopted, he would propose a modification of the previous section. He thought the compensation for the services of supervisors should be fixed. There would be an impropriety in their auditing their own accounts or fixing their own compensation.

Mr. WILLARD moved to strike out "fifty cents."

Mr. J. BARTOW suggested to the gentleman from Jackson to withdraw his amendment, and move to add after the word "powers," in the sixth section, the word "compensation;" leaving it to be fixed by the Legislature. He did not think it proper to fix it in the constitution. The Legislature would then prescribe their powers and fix their compensation.

Mr. CORNELL withdrew his proposition.

On motion of Mr. J. BARTOW, section 6 was amended by inserting after "powers," the words "and compensation."

Mr. EATON proposed to amend by adding at the end of section 2, as follows: "except the county of Wayne."

Mr. EATON hoped it would be incorporated. Gentlemen must be aware that the county of Wayne is differently situated from any other county, having a large city within its borders, of twenty-five thousand inhabitants. They have been desirous of dividing the county, but could not do it under the old constitution, except by making Detroit the new county; in which case they would have to transcribe the records. Under the proposition he had offered, they could make the out towns the new county, which would then have to transcribe the records.

The amendment was negatived.

Mr. WILLIAMS moved to amend the same section by striking out "six hundred square miles," and inserting in lieu thereof "sixteen townships, as surveyed by the United States."

Mr. FRALICK moved to amend the amendment by inserting "four hundred," instead of six hundred;" which did not prevail.

The amendment offered by Mr. WILLIAMS was adopted.

Mr. DANIELS moved to amend section 3, by striking out the words "one county surveyor."

Mr. D. said he presented it to the Convention, believing as he did, that it was unnecessary, and that it puts persons to great inconvenience. If left as it was in New York, each man would employ his own surveyor, which would be better.

The amendment prevailed.

Mr. WALKER moved to amend section 3 by adding after the word "law," in the 4th line, as follows: "And any qualified

elector who shall have resided in the county six months next preceding the election shall be eligible to the aforesaid offices."

Mr. COOK moved to amend by striking out so much as relates to the time of residence.

Mr. WALKER accepted the amendment.

Mr. WHIPPLE wished the gentleman to explain the object of the amendment.

Mr. WALKER—Some doubts seem to have existed, though there were none in reality, whether persons not citizens of the United States, though enjoying the elective franchise, were eligible to office. He wished to make it plain.

Mr. J. D. PIERCE would inquire if there were any thing in the constitution preventing it?

The amendment was not adopted.

Mr. W. ADAMS proposed to amend section 8 by adding thereto as follows: "But no township already organized, embracing a territory of no more than six miles square, shall be divided into two separate townships."

Which did not prevail.

Mr. HASCALL moved to amend section 6 by adding thereto, "but such compensation (to supervisors) shall not exceed one dollar and twenty-five cents a day."

Mr. H. observed, as the Convention proposed to fix the pay of members of the Legislature and the salaries of State officers, he thought it would be as proper to fix the compensation of the board of supervisors.

Mr. VAN VALKENBURGH hoped it would not prevail. A few days ago gentlemen voted three dollars a day for members of the Legislature; the duties of supervisors were as arduous; they have to go to the county seats and leave their homes; their expenses were as large as members of the Legislature. He moved to insert "one dollar and fifty cents."

The amendment prevailed by yeas and nays, as follows:

YEAS—Messrs. Arzeno, Axford, Backus, Barnard, H. Bartow, J. Bartow, Beardsley, Britain, Alvarado Brown, Asahel Brown, Chandler, Choate, Church, Comstock, Conner, Daniels, Desnoyers, Dimond, Eaton, Edmunds, Fralick, Gale, Graham, Green, Hanscom, Hart, Hathaway, Kingsley, Kinne, Lee, Lovell, Mar-

vin, McLeod, Mosher, Mowry, Newberry, O'Brien, Orr, N. Pierce, Raynale, Redfield, Roberts, Robertson, E. S. Robinson, M. Robinson, Rix Robinson, Soule, Storey, Sturgis, Tiffany, Van Valkenburgh, Wait, Walker, Warden, Webster, White, Whipple, Whittemore, Woodman, President—60.

NAYS—Messrs. Ammon Brown, Cook, Cornell, Danforth, Eastman, Gardiner, Harvey, Hascall, Hixon, Morrison, Skinner, Sutherland, Town, Wells, Willard, Witherell—10.

The question recurring on the adoption of the amendment as amended,

Mr. J. BARTOW said he had voted for the amendment, not because he was in favor of having it in the constitution, but because he thought it possibly might get there. He had an objection to inserting it in the constitution, as being out of place and character. It was more appropriate to an enactment of the Legislature than the organic law. It may happen that with the new duties imposed upon the board of supervisors, their pay should be increased. He was opposed to fixing the pay in the constitution.

Mr. HASCALL'S proposition was rejected.

Mr. FRALICK moved to amend section 11 by inserting after "supervisors," in line 1, "or county auditors."

Mr. FRALICK stated that in the county of Wayne they had a board of auditors which they were desirous to retain. If the Legislature chooses hereafter to change the system it could do no harm.

Mr. BARTOW wished to know on which of the two boards in Wayne county the duty would devolve?

Mr. FRALICK—The board was established by law, and its duties defined. They must exist until altered by law or cut off by the constitution.

The amendment did not prevail.

On motion of Mr. TIFFANY, section 9 was amended by inserting after "electors," in the third line, the words, "voting thereon."

Mr. WHIPPLE moved to amend the article by striking out in section 3, "prosecuting attorney," and adding the following, to stand as a new section:

"A prosecuting attorney for each judicial circuit shall be elected by the qualified

electors at the same time that judicial officers are elected, as provided by this constitution, who shall hold his office for the term of four years, and whose duties and compensation shall be prescribed by law."

Mr. WHIPPLE—I desire to state the object I have in view in proposing the amendment under consideration. The proposition is an important one, and I ask the particular attention of the Convention to the reasons I shall offer in its support. Every thing that relates to the administration of justice is deeply interesting to the people of this State. To secure an intelligent and prompt administration of criminal justice is a duty which every government owes to its citizens. Without it, we fail in performing one of the highest obligations enjoined by the compact, which binds the citizen to the government of his choice. That this State has not performed its whole duty in this respect, I have for a long time been satisfied. Various causes have been assigned why the laws upon your statute book have failed to inspire terror, and why criminals have so often escaped the punishment due to their crimes. Without enumerating all, my long service upon the bench of this State has impressed me with the belief that one great difficulty is to be found in that want of experience, so necessary to an efficient and successful discharge of the duties which devolve upon our Prosecuting Attorneys. There are comparatively few professional gentlemen in this State who make the criminal law the particular subject of their study, and hence we find the want of that accurate, theoretical knowledge so indispensable to the practitioner. But, suppose this knowledge to be possessed; it will avail but little unless it has been applied in practice. To make an accomplished criminal lawyer, theory and practice are necessary.

Now, sir, our condition and circumstances forbid the idea that in many of the counties of this State, sound and accurate learning is to be found united with any considerable experience. The lawyer who is thus doubly armed, does not usually seek a residence in your remote and sparsely populated counties. But the young practitioner, who is enabled to encounter the hardships and privations incident to new settlements, and who, under circumstances of discouragement, is buoyed up

by the hope that at no very distant day he may reap professional honors in his new field of labor. According to your present constitution a Prosecuting Attorney is to be appointed in each county, and in the present condition of things it cannot be expected that men of sound learning and ample experience can be found to fill that office in many of those counties. The selection being limited to a few persons, the Governor has been obliged from necessity to appoint those who are not fully competent to the discharge of the important and complicated duties devolved upon your prosecuting officers. I propose to apply to some extent a remedy for the evil, by the appointment of a Prosecuting Attorney in each judicial circuit. Should the proposition meet with favor by the Convention, I shall anticipate a more vigorous administration of criminal justice than has heretofore marked our history. Appoint a person to prosecute in the several counties embraced in each judicial circuit, and you at once create an office worthy the ambition of our most distinguished criminal lawyers. If they do not enjoy that ripe experience attained by long practice, they will soon acquire it in the extended field in which their learning and talent is to be tasked. The felon will no longer rely upon defective indictments and inefficient prosecutions as a means of escape from the penalty which the law affixes to his crime.

While the evils which burden the present system will be removed, the plan I propose will relieve the people from a system of taxation which has become insupportable. The salaries now paid by the several counties exceed those proposed to be paid the circuit attorneys, several thousand dollars. But this difference is trifling compared with the amount which will be saved if the power now lodged in the hands of thirty prosecuting attorneys is deposited in the hands of a few circuit attorneys, who will bring to the discharge of their duties the learning and experience which will ensure dispatch in the public business.

Mr. TIFFANY—It is due to the gentleman from Berrien to say that his remarks in relation to prosecuting attorneys are correct. It does require more legal learning than usually falls to the share of prosecuting attorneys. But I very much

doubt whether the proposition of the gentleman from Berrien would tend to reduce the expense. We know that expenses occur in the investigation of offences—in the initiatory proceedings in regard to offenders, previous to their trial. In the preliminary stages of a prosecution the services of a prosecuting attorney are more needed than in any other. Under the proposition of the gentleman from Berrien, all the benefit of his services and advice in those stages would be lost.

We know that in many cases, especially in new counties, persons who commit offences go unwhipped of justice. It is because ignorant men are appointed to the office of prosecuting attorney—men who have not sufficient legal attainments. How, then, would it be if you had not a prosecuting attorney residing in the county? For five months out of the six you must be left without the aid of his services, in those stages of proceedings where they are most required, or be at a great expense in obtaining them. We could not depend upon the proceedings of many of our justices to be such as would stand the investigation of law. His services could not be obtained, except in the county in which he resided, without expense, and the result would be that in many cases the prosecution would be abandoned.

If a prosecuting attorney is engaged in the first stages of the proceedings, he knows the whole matter; he is acquainted with the witnesses and knows what every man will testify when he comes into court, and he sees that the witnesses are there; but how would it be in case you have only one prosecuting attorney for a judicial circuit? Sir, he would go into another county, ignorant of the causes to be tried, without knowing any thing of the witnesses, unless they came of their own accord. It needs the exertion of a prosecuting attorney to get them there. Causes are often put over on account of the absence of witnesses.

The system which the gentleman from Berrien proposes has been tried in New York, and has failed; it was abolished in a short time; it was in effect turning away the course of justice. You cannot find a man that can come into court and carry a case through unless he has been previously acquainted with the case.

Mr. KINGSLEY said it was probable that the grand jury would be abolished, in which case more duties would devolve on the Prosecuting Attorney, and a greater necessity would exist for his residence in the county. The Prosecuting Attorney is usually consulted in cases where he cannot personally attend. Should he be appointed to superintend so many counties, it would become necessary to adopt some other means of prosecution.

Mr. SULLIVAN thought there was one insurmountable objection to the scheme of the Chief Justice. Under our laws, a large number of criminal offences, perhaps the most numerous class, were triable before magistrates. How can a prosecuting officer attend to that class of cases arising in every county of his circuit? It appeared to him if an office were created, such as was suggested by the gentleman from Berrien, it would still be indispensable to have county Prosecuting Attorneys, and the expense of both systems would be increased.

Mr. WHIPPLE briefly replied; when the question was taken on the amendment, which did not prevail.

Mr. REDFIELD moved to reconsider the vote by which Mr. FRALICK's amendment to section eleven was rejected.

Mr. B. said he had become convinced on reflection, that the county of Wayne should be allowed to exercise the right of having a board of commissioners. The business of that county was much larger than the business of any other county in the State. The great advantage of having a board of commissioners was this: by the mode of election they have always some on the board that have experience, and claims that have no merit are kept out: they require some men to be kept in office some time to protect them against false claims. There is no other county exactly situated as Wayne county, and perhaps it may with propriety be made exclusively for Wayne county.

The vote was reconsidered.

Mr. WITHERELL said the board of county auditors was adopted in Wayne county on account of the large amount of business. They had found it expedient to retain the board of auditors. If the gentleman would modify it, so as to make it applicable to any portion of the State, oth-

er counties might apply to the Legislature if it should be desirable.

Mr. J. BARTOW did not think a board of auditors preferable for other counties. So far as Wayne county was concerned, he would vote for it; he was willing to let the members of that county take the responsibility.

Mr. FRALICK's amendment was agreed to.

Mr. CHURCH moved that the vote by which the Convention refused to strike out section nine be reconsidered.

Mr. EASTMAN was sorry again to trespass upon the time of the House; but he believed the section did not stand right in regard to justice and expediency, especially as it affected new counties. He had requested his colleague to move a reconsideration for the purpose of offering a substitute, which he read. If the section was not struck out, he would ask to have his own county relieved from its operation.

I have (said Mr. E.) closely watched the movements of this Convention, and been pleased with the progress made; and I hope the constitution may be so arranged as to be acceptable, not only to my own constituents, but to the people of the State, and that it may be adopted unanimously. But, sir, I must say that the consequences to my constituents, if the section remains as it is, may induce them to go against it, whatever other valuable provisions may be engrafted in it.

The motion to reconsider prevailed.

Mr. EASTMAN moved to amend the section by striking out "when once," in the first line, and inserting "now" in its stead; but the motion was lost.

The vote being again taken upon striking out section nine, the Convention refused to strike out.

Mr. HIXON moved to amend section 10 by striking out in the first line "borrow or," and in the third line the words "borrowed or."

Mr. H. asked the yeas and nays, and the same being demanded, the amendment was lost, as follows:

YEAS—Messrs. Barnard, Beeson, Brittain, Alvarado Brown, Bush, Carr, Choate, Cook, Eastman, Edmunds, Gardiner, Graham, Hanscom, Hart, Hathaway, Hixon, Kingsley, Lee, Mason, Newberry, O'Brien, Raynale, Roberts, Skinner, Wait, Walker, Warden, Webster, Whipple—29.

NAYS—Messrs. W. Adams, Alvord, Anderson, Arzeno, Axford, Backus, H. Bartow, J. Bartow, Beardsley, Ammon Brown, Asabel Brown, Chapel, Church, Comstock, Conner, Cornell, Danforth, Daniels, Desnoyers, Dimond, Eaton, Fralick, Gale, Gibson, Green, Harvey, Hascall, Moore, Mosher, Orr, J. D. Pierce, N. Pierce, Redfield, Robertson, E. S. Robinson, M. Robinson, Rix Robinson, Soule, Storey, Sturgis, Sullivan, Sutherland, Town, Van Valkenburgh, Wells, White, Whittemore, Williams, Willard, Woodman, President—51.

Mr. BACKUS moved to amend section 2 by adding thereto as follows: "but the Legislature shall have power to organize any city into a separate county when it shall have attained a population of at least twenty thousand people, without reference to geographical extent."

On motion of Mr. DESNOYERS, the foregoing was amended by adding thereto "upon application of a majority of the legal voters of said city."

On motion of Mr. BRITAIN, the last vote taken was reconsidered.

Mr. HANSCOM proposed the following as a substitute for the amendment, which was accepted by Mr. DESNOYERS: "when a majority of the legal voters of a county in which such city may be situated shall recommend such new organization."

The same was agreed to.

The original proposition of Mr. BACKUS, as amended, was then adopted.

On motion of Mr. STOREY, section 6 was amended by striking out "hereafter," and inserting after "prescribed," the words "in this constitution."

On motion of Mr. BRITAIN, section 8 was amended by striking out in the second line the words "or to lay out," and inserting in lieu thereof "the laying out and establishing of."

Mr. EDMUNDS moved to strike out section 8, and substitute the following:

"The Legislature shall by general laws confer upon the board of supervisors of their respective counties power to construct highways and bridges, and to authorize the construction of the same, to lay out and establish roads, and to fix the boundaries of townships. Power shall also be conferred upon the inhabitants of any one or more surveyed townships to organize township governments therein."

Mr. HANSCOM moved to amend the section by adding thereto as follows: "provided, that any surveyed township containing 150 white inhabitants, shall be entitled to a separate township organization, if a majority of the electors of such township shall so elect."

Pending which, on motion of Mr. COOK, the Convention adjourned.

TUESDAY, (37th day,) July 23.

The Convention met pursuant to adjournment and was called to order by the PRESIDENT.

Prayer by the Rev. Mr. SANFORD.

PETITIONS.

By Mr. MOWRY: of S. F. Hubbell and 74 others, citizens of Oakland county, praying for the insertion of a provision in the constitution, prohibiting the Legislature from passing any law authorizing the sale of intoxicating liquors as a beverage; also to make the traffic in intoxicating liquors as a beverage a penal offence.

Also, of Mrs. E. Hastings and 198 others, ladies of Milford, Oakland county, praying for a like prohibition.

By Mr. FRALICK: of Mary A. Bentley, Hannah Buearley and 160 other ladies of Plymouth, praying that there may be an article in the revised constitution prohibiting the manufacture, importation, or sale of intoxicating drinks as a beverage.

The above were severally referred to the select committee heretofore appointed upon the subject.

RESOLUTIONS.

Mr. WOODMAN offered the following:

Whereas, Hon. P. R. ADAMS has absented himself from the sittings of this Convention during most of the session, without any apparent excuse or reason for so doing; therefore,

Resolved, That the Secretary be not authorized to draw any certificate in favor of said ADAMS for per diem allowance, unless directed so to do by the Convention.

Mr. DANFORTH moved to lay the preamble and resolution upon the table; which did not prevail.

On motion of Mr. HANSCOM, the consideration of the same was postponed for one week.

Mr. BUTTERFIELD offered the following:

Resolved, That the afternoon sessions of this Convention will hereafter commence at two o'clock.

Mr. ALVORD moved to amend by striking out "two" and inserting "one," which was not agreed to.

Mr. DESNOYERS moved to strike out "two," and insert "half-past two;" which was not sustained.

The resolution was then adopted.

The Convention having reached the order of third reading of articles, and the article entitled "Elections" coming up for consideration,

On motion of Mr. J. BARTOW, it was laid upon the table until to-morrow.

The Convention then proceeded to the consideration of the article entitled "County Officers and County Government;" and the question being upon Mr. HANSCOM's amendment to section eight:

Mr. J. D. PIERCE hoped that the proposition of the gentleman from Washtenaw, [Mr. EDMUNDS,] presented on a previous day, would prevail. He was strongly opposed to giving the power to the supervisors, as provided for in the original section. It would be productive of much evil, as it would in effect give them the power of breaking down our present county organization. He had no doubt that proper powers could be given to that board, with reasonable limitations.

Mr. BRITAIN expressed himself as being opposed to leaving the regulation of the subject in the hands of the Legislature. He conceived that no possible danger could result to the interests of a county by leaving the regulation of its affairs with the supervisors. They were best acquainted with the wants and wishes of the people of a county; and, in an economical point of view, he considered it more desirable that they should have the control of the county matters.

A slight conversational discussion then ensued, in which Messrs. HANSCOM, J. D. PIERCE, EDMUNDS and BRITAIN participated; after which,

Mr. BRITAIN offered the following as a substitute for the section: "The Legislature shall provide by general laws:

"1. For the laying out and establishing

State and county roads, and for altering the same;

"2. For the erection of bridges;

"3. For the organization of legally established counties;

"4. For the organization of United States surveyed townships by the inhabitants thereof;

"5. For changing the boundaries of organized townships by the board of supervisors, subject to the approval of the electors of said townships."

Mr. HANSCOM liked the proposition of the gentleman better than anything that had as yet been presented. He would withdraw his amendment.

The question then turned upon the following substitute for the section, proposed by Mr. EDMUND's yesterday:

"The Legislature shall, by general laws, confer upon the board of supervisors of their respective counties, power to construct highways and bridges, and to authorize the construction of the same; to lay out and establish roads, and fix the boundaries of townships. Power shall also be conferred upon the inhabitants of any one or more surveyed townships to organize township governments therein."

Mr. COOK inquired if the amendment of Mr. EDMUNDS' did not cover more ground than the gentleman intended. It gave the power to organize as many townships as they pleased.

Mr. EDMUNDS replied in the negative. It only gave the inhabitants of one or more surveyed townships, power to organize a government. It provided merely for a joint organization; for it frequently happened in some counties that in the first organization several townships were organized together.

Mr. ARZENO moved to amend the amendment by striking out all after the word "the" in the first line, and inserting the following: "Board of supervisors of all organized counties shall have exclusive power to organize and divide townships; but no new township lines, other than those made for the purpose of organizing new townships, shall be valid, unless a majority of the voters in the territory it is proposed to set off, shall agree to the same in a manner to be prescribed by law."

Mr. EASTMAN moved to amend the amendment by inserting after the word

"counties," the words "by a two-thirds vote."

Mr. E. desired to maintain a system of some kind—like that adopted yesterday. If it were dangerous to trust a majority of the electors yesterday, it was equally, or should be so (to be consistent) to-day; he therefore offered this amendment.

Mr. N. PIERCE said it seemed to him that the amendment of the gentleman from Washtenaw [Mr. EDMUNDS] covered the whole ground that was necessary. He was not afraid to trust the Legislature in this matter.

Mr. SUTHERLAND thought the language of the section was just what the new counties required—they were the counties that would be affected by the provision. In the old counties the townships were already organized. In the new counties the townships were organized when there were but few inhabitants.

He thought the original section better than the proposition of the gentleman from Washtenaw. What did it propose? To give the power of regulating township lines to men who would only exercise that power when the necessities and good of the people required it. When a new township was to be organized, who was more competent to do it than the board of supervisors? They were men thoroughly acquainted with the county and the advantages of particular boundaries, and in his judgment the most desirable to regulate this matter.

It had been suggested that there would be but few supervisors in some counties. Even so—could not one or two or three supervisors lay off a county? The Legislature said what would constitute a county, and then there was no difficulty in laying out the county. He believed the Convention came here instructed to give as much power to a county as was compatible with the interests of the people of the county.

Mr. EASTMAN's amendment was negatived.

The amendment proposed by Mr. ARZENO was also disagreed to.

The question then turned upon the substitute offered by Mr. EDMUNDS.

Mr. BRITAIN proposed as a substitute for the same, the proposition which he had previously submitted as a substitute for

the section, (8.) He hoped the amendment would be made. He thought the gentleman would see that it accomplished what he sought. It was practicable for the Legislature to make all the laws necessary on the subject; they could invest such powers in this board as they would in their wisdom see fit. He was not by this proposition taking away the power from the board of supervisors, no more than from any other body. He thought, however, that by providing in regard to those powers in the organic law, much time and money would be saved. He was also of opinion that the power of regulating township lines should be left to the board of supervisors.

Mr. ARZENO moved the previous question upon the section, which being sustained, the main question was ordered to be now put.

Mr. MOORE moved a call of the Convention. Lost.

The question first recurring on the substitute of Mr. BRITAIN for the one proposed by Mr. EDMUNDS, the yeas and nays were ordered, and the proposition rejected as follows:

YEAS—Messrs. W. Adams, Axford, Britain, Alvarado Brown, Chapel, Choate, Church, Conner, Cook, Daniels, Graham, Green, Hanscom, Hart, Harvey, Hascall, Hathaway, Kinne, McLeod, Morrison, Mosher, Mowry, Newberry, Orr, Raynale, Redfield, Robertson, Rix Robinson, Sturgis, Town, Warden, White, Whipple, Witherell, President—36.

NAYS—Messrs. Alvord, Anderson, Arzeno, Backus, H. Bartow, J. Bartow, Beardsley, Ammon Brown, Bush, Butterfield, Carr, Chandler, J. Clark, Comstock, Cornell, Crary, Desnoyers, Dimond, Eastman, Eaton, Edmunds, Fraick, Gale, Gardiner, Gibson, Kingsley, Lee, Lovell, Marvin, Moore, O'Brien, J. D. Pierce, N. Pierce, Prevost, E. S. Robinson, Skinner, Soule, Storey, Sutherland, Van Valkenburgh, Wait, Walker, Wells, Whittemore, Williams, Woodman—46.

The question being on striking out the 8th section, and inserting in lieu thereof the proposition of Mr. EDMUNDS,

Mr. CRARY demanded a division of the same.

The question then turned upon striking out, and the yeas and nays being ordered thereon, were had, and resulted as follows:

YEAS—Messrs. Anderson, Axford, Backus, H. Bartow, Britain, Bush, Carr, Chandler, Choate, J. Clark, Cook, Crary, Daniels, Desnoyers, Eaton, Edmunds, Gale, Gardiner, Green, Harvey, Hathaway, Kingsley, Kinne, Lee, Lovell, Morrison, Mosher, Newberry, O'Brien, J. D. Pierce, N. Pierce, Prevost, Raynale, Robertson, Skinner, Soule, Storey, Town, Wait, Warden, White, Williams, Witherell, Woodman, President—45.

NAYS—Messrs. W. Adams, Alvord, Arzeno, Barnard, J. Bartow, Beardsley, Ammon Brown, Asahel Brown, Butterfield, Chapel, Church, Comstock, Conner, Cornell, Danforth, Dimond, Eastman, Fralick, Gibson, Graham, Hanscom, Hart, Hascall, Marvin, Moore, Mowry, Orr, Redfield, E. S. Robinson, Rix Robinson, Sturgis, Sutherland, Van Valkenburgh, Walker, Wells, Whipple, Whittemore, Willard—38.

So the section was stricken out.

And on the question of inserting the substitute of Mr. EDMUNDS, the yeas and nays were ordered, and the substitute rejected by the following vote:

YEAS—Messrs. W. Adams, Anderson, Backus, Asahel Brown, Bush, Carr, Chandler, Church, J. Clark, Crary, Daniels, Desnoyers, Eastman, Eaton, Edmunds, Gale, Gardiner, Green, Harvey, Hathaway, Kingsley, Lee, Lovell, McLeod, Mosher, O'Brien, J. D. Pierce, N. Pierce, Prevost, Skinner, Soule, Storey, Town, Wait, Walker, White, Williams, Willard, Witherell, Woodman, President—41.

NAYS—Messrs. Alvord, Arzeno, Axford, Barnard, H. Bartow, J. Bartow, Beardsley, Beeson, Britain, Alvarado Brown, Ammon Brown, Butterfield, Chapel, Comstock, Choate, Conner, Cook, Cornell, Danforth, Fralick, Gibson, Graham, Hanscom, Hart, Hascall, Kinne, Marvin, Moore, Morrison, Mowry, Newberry, Orr, Raynale, Redfield, Robertson, E. S. Robinson, M. Robinson, Rix Robinson, Sturgis, Sutherland, Van Valkenburgh, Warden, Webster, Wells, Whittemore—45.

Mr. HANSCOM moved to amend the second section by adding after the words "United States," the following:

"Unless a majority of the qualified electors residing in the territory to be affected by such organization shall so elect."

The reason which induced me to offer this amendment grows out of the fact that

there are many organizations in this State, for the convenience of the people of which it may become necessary before the end of fifteen years to have a separate organization. I propose to throw about that organization a very strong guard: to require the absolute assent of a majority of those who are to be affected by it. In many of our new counties of small territory, and the islands about the State, they may require to have a separate organization within a few years. If the people desire it, I believe they should have it.

Mr. McLEOD—The exigency referred to by the gentleman occurred on Beaver Island, in Lake Michigan. They are restricted in their territory, and cannot make up sufficient to constitute a county, unless they attach some islands situated at thirty miles distance. I think the people the best judges of their own interests.

Mr. COOK moved to amend the amendment by striking out the words "the territory," and inserting in lieu "each county."

Mr. BEARDSLEY was not satisfied with the section as it now stood; perhaps he would be in favor of the amendment if he could understand it; but there was so much noise in his part of the house that he could not hear what was stated by the the chair.

The PRESIDENT read the amendment again.

Mr. HANSCOM thought the word "territory" the most comprehensive term that could be used.

Mr. COOK thought the proposition, if not amended as he had suggested, would be a little vague. The people would have, according to that proposition, no means of legally making known their organization. It might be said, to be sure, that they could petition the Legislature. But in his opinion the Convention should make this provision specific, so as to require that there should be a watch upon those organizations. Why not make it specific, so that the Legislature might know what this Convention meant. This was a proposition to reduce counties to a less dimension than sixteen townships. The gentleman said that the people might possibly desire to cut up their counties; but the people of other counties did not desire to do so by any means. Sixteen townships were as

small a number as any county ought ever to organize with, no matter what its population might be.

Mr. VAN VALKENBURGH said the original proposition appeared to him much more clear and expressive than the amendment offered by the last speaker; and also much more indicative of the intention of the Convention. "Territory" comprehended so much of the country that it would include new counties, set off either from old counties, or from territory not yet organized. When the people in this territory desired to make a new county from three or four contiguous counties, under this proposition they would possess the power to take a vote on the subject; and they must not only have the consent of the citizens of the county to be set off, but also of those interested. In fine, there should be a majority of those interested in the matter in favor of the new organization. He thought the original section was better calculated to define the subject.

Mr. DANFORTH expressed himself as being opposed to the amendment of Mr. HANSCOM. He thought that if there were a desire of separating in a county, it would create much confusion and discord amongst the inhabitants of it. In his opinion a county should not be organized with less than sixteen townships.

Mr. BACKUS hoped that neither proposition would be adopted. If he understood the proposition of the gentleman from Oakland aright, it was this, viz: to authorize the organization of a county, either in a new district of land, or in the parts of old counties to be cut off from them, with a less amount of townships than sixteen. Suppose the territory to comprise the new county were to be taken from four counties; the proposition was that a majority of the people in that district were to say whether the county should be organized or not: they were to be the people affected. Who was to be affected by it in reality—the four counties, or the State? Why, in fact, they could organize a county with but a single township in it, under the proposition of the gentleman, [Mr. HANSCOM.] Again, territory interested might be construed to mean the vote of those four counties. For instance, three of those counties might be new, and sparsely populated, and the fourth, a large

county with more votes in it than all three combined. This fourth county might desire to form a new county and secure a member for the Legislature, whilst the other counties did not desire it at all; yet under the operation of this proposition they could rifle those new counties of their territory, just to secure a political aim. He should certainly approve of the amendment of the gentleman from Hillsdale, [Mr. Cook,] so that each county should acquiesce in the proposition to dismember.

Mr. HANSCOM did not care much whether the amendment prevailed or not. But he had not supposed that any man in this Convention had the boldness to impose restrictions on the popular will. He had supposed they had been struggling there for two months to give effect to the will of the people, and to give it a controlling influence in the State. Neither had he imagined that gentlemen would oppose the people—if they desired to form a new county, for instance—in giving expression to the popular will. Gentlemen appeared to suppose they were going to divide off the State if they adopted this proposition. In his judgment, cases would arise frequently in the next ten years which would render it necessary to adopt the course proposed. This was the time to make provisions for the contingencies which might arise in relation to this matter.

The gentleman last up referred to four counties. Well, suppose it was proposed to form a county from out them, what course would be pursued? Simply this: a corner would be taken from each; but not until a vote was taken sanctioning the separation, as specified in the proposition. He could not perceive that any evil whatever would result from the proposition.

The question was then taken upon the amendment to the amendment, and was adopted by the following vote:

YEAS—Messrs. W. Adams, Anderson, Arzeno, Axford, Barnard, H. Bartow, J. Bartow, Beeson, Alvarado Brown, Ammon Brown, Asahel Brown, Chandler, Choate, Church, J. Clark, Comstock, Cook, Daniels, Dimond, Eastman, Eaton, Edmunds, Fralick, Gale, Gibson, Graham, Green, Hart, Hascall, Hathaway, Kingsley, Kinne, Lee, Marvin, McLeod, Moore, Morrison, Mosher, Mowry, Newberry, Orr, J. D.

Pierce, N. Pierce, Raynale, Redfield, M. Robinson, Skinner, Sturgis, Sullivan, Tiffany, Town, Wait, Wells, Whipple, Whittemore, Williams, Willard, President—58.

NAYS—Messrs. Alvord, Backus, Beardsley, Britain, Bush, Carr, Chapel, Conner, Cornell, Danforth, Gardiner, Hanscom, Harvey, Lovell, O'Brien, Prevost, Robertson, Rix Robinson, Soule, Van Valkenburgh, Walker, Webster, Witherell, Woodman—24.

The proposition of Mr. HANSCOM, as amended, was then agreed to, by yeas and nays, as follows:

YEAS—Messrs. Alvord, H. Bartow, Beeson, Britain, Ammon Brown, Bush, Chapel, Choate, Church, J. Clark, Cornell, Dimond, Eastman, Eaton, Edmunds, Fralick, Green, Hanscom, Hascall, Kinne, Lee, Marvin, McLeod, Morrison, Mosher, Mowry, Newberry, Orr, Robertson, M. Robinson, Rix Robinson, Storey, Sturgis, Town, Van Valkenburgh, Walker, Webster, Wells, Whipple, Williams, Willard, Witherell, Woodman, President—44.

NAYS—Messrs. W. Adams, Anderson, Arzeno, Axford, Backus, Barnard, J. Bartow, Beardsley, Alvarado Brown, Asahel Brown, Butterfield, Carr, Chandler, Comstock, Conner, Cook, Danforth, Daniels, Gale, Gardiner, Gibson, Hart, Harvey, Lovell, O'Brien, J. D. Pierce, N. Pierce, Prevost, Raynale, Redfield, Skinner, Soule, Sullivan, Tiffany, Wait, White, Whittemore—37.

Mr. WALKER moved to amend section 12 by prefixing the following: "The boards of supervisors of all organized counties shall have the power to provide for the laying out of highways and the construction of bridges, and for the organization of townships, under such restrictions and limitations as shall be prescribed by law; and."

M. BRITAIN—I hope no friend of the principle of conferring this kind of power upon the supervisors will support the motion. In truth, while it purports to do a great deal, it does nothing—we gain nothing whatever. After all, it comes back to the legislature, to take from them second hand what portion of this power they may choose to deal out. The friends of this principle purpose, however, to reinstate section 8 as it stood this morning. We say, secure the principle, but not by half-way measures.

Mr. WALKER—I do not know whether the gentleman numbers himself among the friends or opponents of this principle. This much, however, I do know; that I have been requested by a number of its friends to offer this amendment, after the 8th section had been struck out. So far from its conferring any half-way power, it gives the whole power; but the manner in which it is to be exercised is to be under the restriction of the Legislature.

We have been told heretofore, that it was not proper for this body to legislate; that it should establish general principles, confer general powers; and whatever limitations were necessary to be made, should be left in the hands of the Legislature—to their control. Well, this amendment gives to a board of supervisors jurisdiction in relation to roads, bridges and the organization of townships, under such limitations as the Legislature shall see proper to establish. Such, for instance, that they shall not organize any two townships with the same name, and so forth.

The amendment was adopted.

On motion of Mr. ALVORD, section eleven was amended by striking out "and" in the first line, and inserting in its stead "or."

Mr. BRITAIN offered the following, to stand as a new section:

"The Legislature shall authorize any United States surveyed township, having one hundred and fifty inhabitants therein, to organize for themselves a separate township government; provided the township left contains one hundred and fifty inhabitants."

Mr. WILLIAMS—I think that where people venture into the wilderness and make it their home, they ought to have the right to organize their townships, no matter how small their number may be. I move to strike out "one hundred and fifty inhabitants therein."

Mr. BRITAIN did not know that he should object strenuously to the motion of the gentleman, if it would secure the object sought to be secured by his proposition. But he feared that if the amendment prevailed, it and the original proposition would fall together, because he doubted very much if this Convention would authorize the organization of a township without some restriction in regard to the num-

ber of inhabitants in it. But, whatever the Convention did, he hoped they would be consistent with themselves. His object was to save an important principle, which was this, viz: to secure to the people in any U. S. surveyed township to organize for themselves a township government, whether the Legislature would listen to their prayer or not; provided the township left contains 150 inhabitants. This proposition, it should be remarked, did not prohibit the supervisors from organizing the township if it had but six people. But he desired to have the right of organization secured to the people of a township, in the event that the supervisors refused to organize it. He knew that there was nothing more common than for the people of an unorganized township to be compelled to travel over bad roads to get into another, and when such a township asked for an organization, the larger township refused it. He earnestly hoped that the gentleman's [Mr. WILLIAMS'] amendment would not be adopted.

Mr. WILLIAMS insisted upon his amendment as a matter of sheer justice to those who had settled down in the uncultivated forests of our State, for the purpose of making their home amongst them. He would insist upon it whether the township contained twelve or twelve hundred inhabitants. But he desired to call attention to one matter; it was in relation to the change of the county seat. He would say with some degree of confidence that there would not be, on the first organization of counties, four whose county seats would not be upon the lake shores, or the southern border. Well, it would not be desirable that they should remain there always. The improvement of the county, the increase of its population, and the inconvenience of its situation to those living in the distant parts of the county, by reason of the difficulty and expense of reaching it, would render it necessary to remove the county seat to a central situation. But, would those living in the more thickly populated townships adjacent to the county seat allow those at a distance to remove it? Most assuredly not, if they could prevent it. And he should also remark that the 8th section provided that the location, in case of change, should be designated by two-thirds of the supervisors, and then the change to that

location, to be approved of by a majority of the electors of the county. Now, he wanted to have those new townships represented in the board of supervisors; they had as much interest in regard to the location of the county seat as others. For these reasons, apart from the justice of the matter, he was for allowing those men who had penetrated into the country, to have a voice in these things in spite of the board of supervisors.

Mr. DANFORTH moved the previous question on the article, but withdrew the motion at the request of

Mr. BRITAIN, who desired to modify his proposition by striking out the words "one hundred and."

Mr. J. CLARK submitted the following as a substitute:

"Power shall also be conferred upon the inhabitants of any one or more surveyed township to organize township governments therein."

Mr. DANFORTH renewed his motion; and the previous question having been sustained, the main question was ordered to be now put.

The question being on the adoption of the substitute (Mr. J. CLARK's) for the proposition of the gentleman from Berrien, (Mr. BRITAIN,) the same was put and carried.

The question being upon the adoption of the same as a new section to the article, it was decided in the negative.

And the article was then ordered to a third reading.

The article entitled "State Officers" was taken from the table.

The question being upon concurring with the amendments made in committee of the whole, and the first amendment being to strike out the words "Attorney General,"

Mr. REDFIELD hoped the Convention would not concur in the amendment. There was an absolute necessity for retaining this officer; in fact he was indispensable. He should say that the matter had received but the very hasty action of the committee of the whole.

Mr. KINGSLEY concurred in the remarks of the gentleman last up. He thought the matter of expense as nothing in comparison with the necessity of retaining this officer. If this officer were dis-

pensed with, the State in many cases would be obliged to have recurrence to members of the bar for advice upon legal questions, and it would cost the State much more than if he were retained. The committee on the subject of "State Officers" had investigated the matter thoroughly, and reported in favor of retaining an officer of this character.

Mr. CORNELL was of opinion that the officer should be retained.

Mr. WHITTEMORE remarked that the Attorney General ought to be the officer to advise the Auditor General upon all legal questions which might arise in the department of the latter. He thought it impossible to dispense with this officer.

Mr. WITHERELL coincided with the last speaker in the necessity of retaining this officer. He hoped the Convention would retain him; not for the purpose of making a great array of office holders, but because of the expediency of his retention. He had enquired and found that the expense would be very great if our State officers, or the Executive, were obliged to resort to various lawyers for advice upon legal questions; and as a matter of course, there was a probability of a difference of opinion. If we had no Attorney General, no doubt less inquiry would be made; but, notwithstanding, he thought the cheapest mode would be to have an officer of the kind. He would therefore vote against concurring with the committee of the whole.

Mr. HANSCOM observed that several gentlemen had expressed opinions in favor of retaining the Attorney General, but he was in favor of agreeing with the amendment of the committee for the reasons given by those gentlemen. Let gentlemen take the history of the State and see who have been the men who have filled this office. He would venture to say that they were men not more capable of determining such questions as had been alluded to, than any of the other State officers. The officer was in his opinion an entire humbug.

Mr. WHIPPLE remarked that in his opinion the office was necessary, and would predict that if it were not retained the cost which would be incurred by the State would be much more than the salary of the Attorney General.

Mr. KINGSLEY expressed his concur-

rence in the opinion of the gentleman from Berrien, [Mr. WHIPPLE.] He saw an obvious necessity for retaining the office. There was an amount of cases recurring from time to time, in which it was necessary to have the opinion of the Attorney General.

Mr. HANSCOM inquired if in many important cases the State had not taken the opinion of private lawyers?

Mr. KINGSLEY still thought it inexpedient to dispense with the office.

Mr. COOK was in favor of one of two things, viz: either to make it a constitutional office or to prohibit its being established at all. He should prefer, too, that the salary of the office should be fixed in this constitution. If it were left to the Legislature, the salary would be always fluctuating, until it got to such a high point that no one would ask to raise it any higher. In 1846, when the Legislature was about to fix this salary, the House of Representatives thought three hundred dollars a year sufficient. The subject, however, occupied a good deal of the attention of the Legislature, until they finally settled it at five hundred dollars. The law of 1847 allowed the Attorney General his expenses. The alteration of the law in regard to the salary at that time was not known, he would venture to say, to fifteen members of the Legislature; in fact it was got through in an "omnibus bill," got up on the last night of the session, and so became the law. So it would be with our State officers, if we did not fix their salaries by this constitution. We would have change after change, until at last they reached to such a point that no one would ask to raise them. We could not make a reduction in expenditure by legislative action; we might do it by constitutional provision. The Legislature, he thought, would not abolish this office, and therefore it became necessary for this Convention to make some provision on the subject.

The Convention refused to concur in the amendment.

The second amendment reported from the committee of the whole was concurred in.

The third amendment reported was then taken under consideration,—to insert in section one, after the word "years," the following: "and each of whom shall keep an office at the seat of government."

Mr. CHAPEL inquired what was the necessity of the Attorney General keeping an office at the seat of government? He conceived that it was not necessary that this officer should be obliged to sit himself down here, as he had to attend to the public prosecutions throughout the State.

Mr. WITHERELL moved to amend the amendment by inserting after the words "each of whom," the words "except the Attorney General and Superintendent of Public Instruction."

Mr. REDFIELD said, that even if the Attorney General were compelled to keep an office here, it was not to be inferred from that fact, that he would be here all the time. He thought it rather stringent to make it obligatory upon the Attorney General or the Commissioner of the Land office to keep their offices at Lansing. He would be in favor of keeping the Commissioner here, perhaps, but he thought there was no impropriety in having the office of Superintendent of Public Instruction located here.

Mr. McLEOD was in favor of keeping the Attorney General in Lansing, if it were only for his sins. (Laughter.) In fact, an Attorney General living in Detroit, made the office a mere accidental concern in his practice. It was highly proper that he should sit out here, for the expense incurred by sending him communications would amount almost to the salary which would be given him. He should sit here to answer the inquiries which the other State officers—as the gentleman from Wayne [Mr. BACKUS] would say, and who was so fond of large words—would "propound to him." (Laughter.)

Mr. WOODMAN was opposed to a part of the amendment, [Mr. WITHERELL'S.] He thought the Superintendent of Public Instruction should have his office at the seat of government.

Mr. BACKUS—The gentleman from Mackinac [Mr. McLEOD] has used the word "propound," in reference to me. I would substitute for it, "expedient." I want to have the Attorney General to give light; and if his office be to give light, I think it would be necessary that he should expound the law to the State officers. If this officer be required at all, I think it is at the seat of government, to advise the other State officers in the discharge of their

duties. Here is the only place he is required, because the Convention have already settled that there shall be district attorneys to perform in their respective counties the duties which the State may be required to be performed in those counties. I take it that no man will be placed in the office of district attorney unless competent to discharge all the duties appertaining to it. Then what do we want with an Attorney General? But, if we are to have an Attorney General, why not make him reside here, the same as you do your Auditor or Treasurer, or Secretary of State? If he be a necessary officer, have him here; but if he be an unnecessary officer, why have him at all? His having his office here does not superinduce the necessity of his always remaining here, no more than do the other State officers; but here is the place for his office. I think he should be here, not only for the purpose of propounding questions, but of expounding them also.

The question being upon Mr. WITHERELL'S amendment, a division of the question being had, the motion to insert "except the Attorney General," was lost.

The residue of the amendment was also disagreed to. The amendment of the committee of the whole to sections two, three, four and five, were severally concurred in; when, on motion of Mr. COOK, the Convention adjourned.

Afternoon Session.

The Convention was called to order by the PRESIDENT, and resumed the consideration of the article entitled "State Officers."

The question being upon concurring with the committee of the whole in the amendments to the sixth section, they were severally concurred in. The article being open for amendment,

Mr. REDFIELD proposed the following as a substitute for section six:

"There shall be elected at each general election an agent of the State Prison, who shall hold his office two years."

Mr. REDFIELD said, as one of the committee reporting the section, that he would admit the committee was governed more by the provision of the N. Y. constitution than by any other thing. The

policy in that State upon the subject was entirely different from what it was here, they having reduced their prison discipline to a complete system. Here it was different, as he had said. No doubt some policy could be adopted by which to make the State prison pay a large proportion, if not the entire of its own expenses. Wherever that policy was adopted, it had been found to be a good one. It would be time enough to make permanent provisions on the subject; but until then, the matter should be left under the control of the Legislature, to determine it fixedly. He thought it better to elect an agent who would be accountable to the State for the management of the affairs of the State prison.

Mr. STOREY moved to amend the original section as amended in committee of the whole, by striking out all after the word "constitution" in second line, up to and inclusive of the word "hereafter" in the sixth line, but withdrew the amendment at the suggestion of members.

Mr. N. PIERCE was in favor of the proposition, [Mr. REDFIELD's.] The yearly expenses of the State prison were about \$11,000 since the organization of the State. It was well ascertained by the Legislature that provision could be made by law so that the prison would not cost the State more than from two to three thousand dollars a year. The Legislature came near passing a law which would have effected that reduction; but it was not passed—if it had been, the salaries would have been reduced, which must cost something like \$8,000 a year. It was altogether better for the State to keep a less number of officers; the more officers the more salaries, and consequently the greater the expenses to the people. He was satisfied last winter that a great reduction could be safely effected of the expenses, both to the State and the prisoners. He was in favor of hiring them out. Contracts were offered to take them last year; and all that was wanted was the act of the Legislature. In his opinion if we appointed a board of inspectors or such like, we would have a complete swarm of officers at an enormous expense to the State; but, if we had only one man to superintend this business the cost would be inconsiderable.

Mr. REDFIELD withdrew his proposition.

Mr. CHAPEL observed, it struck him that the section as it now stood was not such as we wanted. He was opposed to leaving three officers to control this prison. He was not certain but that one individual, elected once in two years, and responsible to the people to superintend all the operations of the prison, would not save the expense of the two other individuals whom this article proposed to elect, whose duties it would be to supervise the affairs of the prison. He thought one officer of this kind, elected once in two years decidedly preferable to three. If it should be found necessary to have some appointing power to appoint subordinate officers, or fill up vacancies in situations in the prison, it was the business of the legislature to provide for such. Why not fix it in some manner that the Governor should be consulted; so, that a man wishing to obtain a situation in the State prison should approach the Governor through some party? He did not like any part of the section. In his opinion it would have the effect of generating a sort of hot bed of politicians. He would move to strike out the entire section.

The motion was put, and agreed to.

On motion of Mr. REDFIELD, section two was amended by striking out "1852" and inserting in lieu "1853."

Mr. EDMUNDS moved to amend the same section by striking out "day," and inserting instead the word "Monday."

Mr. J. D. PIERCE proposed "Wednesday" instead of "Monday," so as to make the provision correspond with the article upon the Legislative department.

Mr. EDMUNDS accepted the modification suggested.

The proposition as amended was then agreed to.

Mr. MOORE moved to reconsider the vote by which the Convention refused to except the Attorney General and Superintendent of Public Instruction from the operation of the clause in the first section, providing for offices being kept at the seat of government by the State officers; and also the vote by which the Convention concurred in the amendment to the section made by the committee of the whole. He could see no reason why they should be compelled to live here; their duties in a

great measure would call them away from this place.

Mr. COOK hoped the vote would be reconsidered. He believed that if the section were to remain as it now stood, it would induce the establishment of high salaries. If the Attorney General were obliged to reside here, of course we must pay a larger salary than is now given, in order to secure the services of a competent man. If it should prove necessary hereafter that these officers should live here, it was always within the power of the Legislature to pass a law requiring them so to do.

Mr. CHAPEL had been informed that the article did not contemplate these officers residing here; it was only that they should keep their offices at Lansing.

Mr. HANSCOM would reiterate what he had before said—that if there were any necessity for this officer at all, he was required at the seat of government. He was opposed to the reconsideration of this vote.

It was well known that the principal business of the Attorney General was with the Executive part of the government, to advise and direct them upon all legal questions in the discharge of their duties. The Convention had determined to retain this office, which, in his opinion was worse than useless, and had been so for the last fifteen years—then let the incumbent be here, where his presence was required, if it were required at all.

He should like to know why the State, when it had some great interest on hand, could not go and employ a lawyer and pay him for his advice, the same as a private individual would? But as we were to have an Attorney General, he wanted him to be here—to be on the spot, ready to give advice to the other officers of State whenever any difficulty should arise. If he were not to remain here, they would be obliged to communicate with him by letter. Ten chances to one he would be absent at Niles or Kalamazoo, or some such places, attending to his own business, when an important question would arise here at the seat of government, upon which his advice was required, yet it was not to be had. He would say again if we were to have this officer, make him have his office where his presence was most needed.

Mr. WHIPPLE thought the gentleman entirely wrong in his conception of the duties of the Attorney General. In his [Mr. HANSCOM's] opinion, the duties of the office were entirely to give advice to the other officers of the State. Even if they were only that, then the office is at least not "a humbug." But he [Mr. W.] did not so understand them. The Attorney General was not only called upon to give information to the officers of State, but to the Legislature, so far as he could understand from reading the journals of that body. The gentleman seemed to have forgotten one very important part of the duties of this officer. He should like to know who represented the interests of the State in the Supreme Court, unless it was the Attorney General? Suppose a man were convicted of murder, or the State involved in some very important case; why, said the gentleman, [Mr. HANSCOM,] let the State retain some respectable counsel to argue the case. If the gentleman were retained, it would do very well. But he [Mr. W.] would admonish the gentleman and this Convention that such a course as that suggested would cost the State a large amount. The cases argued in the Supreme Court by the Attorney General during the last two years, would have cost the State (if a "private lawyer" were retained) some \$1,500 a year. The gentleman did not practice in the Supreme Court—his practice was confined to jury business—but if he would look into the books, he would find that there were many cases in which the State was deeply interested: all of which had to be attended to by the Attorney General. He should say he had studied the history of this people to very little purpose, if he understood that officer was worthless and unnecessary. He would not say that some substitute for an Attorney General might not be obtained. He knew it was competent for this Convention or for the Legislature to say there shall be no Attorney General. That question was one merely of expediency.

But, it could not be reasonably denied that the interests of the State required some responsible law officer. In regard to the question of expense, it was a mere drop in the bucket. Our Attorney General did not receive the same amount of

salary that was given to such officers in other States. He admitted that his whole time was not taken up by the business of the State, and hence he could practice in the other courts and attend to his own affairs. Such should necessarily be the case, by reason of the salary given him. In fine, he held this officer to be a most important one.

If the gentleman suggested a substitute, he [Mr. W.] was content. However, he really did not know how the interests of the State could be represented in the judicial department of the government unless by such an officer, or some such other, no matter by what name we called him. He should be glad to see some substitute adopted, if the Convention should so determine. But he was willing to leave the whole thing in regard to retaining or abolishing the office, to the Legislature; though his predilection would be to make it a constitutional office.

Some allusion had been made with regard to those who had filled this office. It was certainly invidious, perhaps, to make any discrimination; but so far as the present incumbent was concerned, in his [Mr. W's] opinion, he had filled it with very much effect and dignity.

Mr. McLEOD remarked that the reasons given by the gentleman from Berrien [Mr. WHIPPLE] were those which in his mind proved the necessity of having the Attorney General here at Lansing. He represented the State interests, and he was the advisor to the Legislature, said the gentleman. Well, it was here the Legislature met, and it was here that the Attorney General should keep his office and be present, in order that the Legislature, when necessary, could consult with him, and not be obliged to travel upon those dreadful roads to Detroit, to get an opinion from him. (Laughter.) Besides this, it was here that the public offices were situated, and that was another reason for his being at the capital. As to his attendance on the supreme court, there was no difficulty. He could go as well from Lansing to a term of that court, as from Detroit. It was suggested in relation to the salary of this officer, that if we compel him to reside here, we should have to give him a larger salary than if he resided in Detroit or elsewhere. Detroit was a sort of nursery for

Attorney Generals, and perhaps with their practice there they could afford to take the office with a small salary. But, no doubt, the salary which the chairman of the committee on salaries would report, would be sufficient, with some practice, to pay a respectable lawyer. He could see no reason why the Attorney General should not reside at the capital.

Mr. MOORE said that when he moved a reconsideration, he thought keeping an office here equivalent to residing in this place. The object which he had in view was, to get rid of the expense that might accrue in regard to this officer. For he supposed that if the Attorney General lived at any other point, he would perform all the duties of the office at a less expense to the State. He had supposed it would answer all purposes if he lived where he pleased, so that he discharged the duties of the office satisfactorily. As to the Superintendent of Public Instruction, it was necessarily his duty to go through the State, to see how educational matters were going on in all parts of the State. His office was not a mere clerkship operation.

Mr. HANSCOM fully concurred in what was said by the gentleman from Berrien [Mr. WHIPPLE] in regard to the present Attorney General. He was a gentleman of the best abilities, and discharged the duties of his office with much satisfaction to the State.

Mr. WITHERELL hoped the vote would be reconsidered. There was not, nor would there be for ten years, a necessity for having the Attorney General reside here. It would require the Legislature to give a large salary, in order to get a competent man to take the office and live here. If he lived in another part of the State where he could enjoy his practice, of course the compensation given him would be much less.

Mr. DANFORTH remarked that hereafter it would be necessary, perhaps, to hold terms of our supreme court, north of this, the practice of which an Attorney General residing here might avail himself of. He considered it very proper that the Attorney General should reside here.

Mr. WHIPPLE was satisfied that it was at present unnecessary.

Mr. BUSH followed in opposition to the

reconsideration of the vote. He contended that more benefit than injury would accrue to the State from the residence of the Attorney General at this point.

The question being upon reconsidering the vote, the Convention refused to reconsider.

Mr. WILLIAMS moved to amend the 1st section, by striking out the word "a" before "Superintendent," in the 1st line, and inserting in lieu thereof the words "who shall be."

Mr. CRARY said that if the gentleman proposed to unite the offices of Auditor and Secretary, or of Secretary and Treasurer, it might be perhaps proper. But that a man educated in Massachusetts where they had a board of education, should come here at this late day and propose to unite the office of Secretary of State and that of the Superintendent of Public Instruction, he knowing the benefits which had resulted from the latter office, surprised him (Mr. C.) somewhat. The combination of any of those offices, other than that to which he had referred, was in some instances perhaps proper; but the combination of the offices of Secretary of State and Superintendent would, in his mind, prove most disastrous in its results. All men of experience on the subject of Education, Horace Mann, of Mass., amongst the number, had strongly recommended the separation of the office of Superintendent from that of Secretary of State. The States almost without exception, appointed a separate officer to attend to this most important branch of public business, for in truth if there were a business which demanded a separate head to transact its details, it was this.

Mr. CORNELL had been informed by a gentleman who stood high upon the subject of education in the State of N. Y., that if those offices were combined, it would be impossible for any one man to discharge the duties of both as they should be.

Mr. WILLIAMS remarked, it was notorious that two or three of the offices of this State had become sinecures. If the Superintendents of Instruction had been Manns or Randalls, and had gone into every section of the State endeavoring to advance the cause of education he would never have made the motion. But that was not

the course which had been adopted. What he desired to effect was, to place the whole educational system of this State upon such a basis that it would possess some comprehensiveness; be a benefit to the State, and carried as it was in New England, to every child in the State. He made the motion in order to do away with sinecures in this State, and when the time came on in regard to free schools, the gentleman last up would find him going as far as the furthest. But, when sinecure offices were in question they were a different thing entirely from taking care of education.

He thought the office of Treasurer should embrace also that of Commissioner of the Land office, and that for the same reason; because they were two sinecures. It was stated somewhere that the last Commissioner of the Land Office employed very little of his time in the performance of the duties of his office. And, it was said (no doubt correctly) that he was better employed preaching the gospel to the benighted; (laughter,) whilst an unfortunate, overworked clerk, was obliged to toil until midnight to do up the business of the office, the Commissioner paying a small percentage on his salary for discharging the duties which he himself should have performed. In fact the Commissioner was made a complete sinecurist in our government.

Mr. WOODMAN said that the Superintendent of Public Instruction went into nearly every county of the State. He had been in his county and opened schools there. He had not risen to enter into any discussion upon this subject, only to vindicate the late Superintendent. He was a most competent man for the office; and in truth he never saw one more warmed up, both soul and mind, in the cause of public education, than was the late Superintendent; and, if he recollected aright, the Legislature found the services of that officer to be of such a character that they raised his salary. He was opposed to merging the two offices into one.

Mr. J. D. PIERCE—This, sir, is a question in which I feel much interest, and I deem it one of the most important that has been presented to the consideration of this Convention. It is one which will affect your school system, and I deem it to be one which will have an important bearing on the interests of the State—not only for

one year, but for years to come. And what, I ask, has given this State the pre-eminence as a new State which it now enjoys upon the subject of education, but that article in your constitution which has laid the foundation of your educational system? And why is it that those States have adopted our system—and why is it that other States south of us, with precisely the same privileges that we have had, squandered their school and university lands, so that in Illinois and Indiana there are thousands who have never been within the walls of a school house? It is because we have a few who have continually kept this subject of education before the public eye.

It has been said, I understand, that the office of Superintendent of public Instruction has been "a sinecure." From my own personal experience, having had the honor to hold that office for four and a half years, I may say it is not so. During that time I visited every organized county in the State, and drew up all the laws passed during that period in relation to common schools. In my first report I advocated that system which the State should adopt, that is, the free school system.

Why is it, I would ask, that Prussia stands at the head of education in Europe? For the simple reason that she has a Minister of Public Instruction to superintend and foster everything relating to the education of her people. I am entirely opposed to the motion of the gentleman from St. Joseph, [Mr. WILLIAMS.]

Mr. WALKER considered that it would be a grievous blow to the cause of education if this Convention should discontinue the office which has been referred to. If there were any remissness in the discharge of the duties of the office heretofore, he hoped the Legislature would take such action as would render the office more efficient, if it lacked anything on that score, and less of a sinecure if it had ever been such.

Mr. WILLIAMS here withdrew the amendment, and moved to amend section 1 by inserting after the words "Secretary of State," the words "who shall be *ex officio* State Treasurer."

The yeas and nays being ordered thereon, were had and resulted as follows:

YEAS—Messrs. W. Adams, Anderson,

H. Bartow, Ammon Brown, Asahel Brown, Butterfield, Carr, Chapel, Choate, Church, Comstock, Cook, Crary, Daniels, Eaton, Edmunds, Fralick, Gale, Green, Harvey, Hascall, Hathaway, Kinne, Lovell, Marvin, Mason, Moore, Mosher, Prevost, E. S. Robinson, Rix Robinson, Tiffany, Town, Wait, Webster, Whittemore, Williams, Willard, Woodman—39.

NAYS—Messrs. Alvord, Arzeno, Axford, Barnard, Beeson, Britain, Alvarado Brown, Burns, Bush, Conner, Cornell, Danforth, Desnoyers, Dimond, Eastman, Gardiner, Gibson, Graham, Hanscom, Hart, Hixon, Kingsley, Lee, McLeod, Mowry, Newberry, O'Brien, Orr, J. D. Pierce, N. Pierce, Raynale, Redfield, Robertson, Skinner, Soule, Storey, Sturgis, Sullivan, Sutherland, Van Valkenburgh, Walker, Warden, White, Whipple, President—45.

The article was then ordered to be engrossed.

On motion of Mr. ROBERTSON, the Convention resolved itself into committee of the whole, Mr. McLEOD in the chair, and resumed the consideration of the article entitled "Education."

The question was announced as being upon the amendment offered by Mr. FRALICK on the 26th of June.

The amendment reads in this form:—"Amend section 3 by striking out all after "shall" in first line, and inserting "provide for a system of common schools, by which a school shall be kept up and supported in each school district, at least three months in every year; and any school district neglecting to keep up and support such a school, may be deprived of its equal proportion of the interest of the public fund. And the Legislature may levy a tax on the whole taxable property of the several townships or cities of this State for the support of said schools."

Mr. VAN VALKENBURGH moved to amend the amendment by striking out "three months," and inserting in stead thereof "six months." We did not reach the desired object (said Mr. VAN V.) by keeping the school for but three months in the year. All the information which children would acquire in three months, would be lost during the other nine months when they would have no school. He hoped the amendment would be modified as he had pointed out.

Mr. FRALICK observed in reply, that it seemed to him we would not have sufficient money to keep the schools open for more than three months. He thought the smaller districts would not be able to keep a school for six months. If they were compelled to do so, as was suggested, it would operate as a very severe hardship upon them. It had been suggested to him that we should levy the school tax upon the whole taxable property of the State; if so desired he would make the amendment.

Mr. WALKER—The chief point to be attained in this provision is to establish a principle, taking a low minimum as to the time which it will be required for a school kept open upon this plan, leaving it to the Legislature to extend that principle as it may feel disposed. In fact there is but very little difference between this proposition and the section as reported by the committee. There is one thing in especial which I dislike in this proposition, and that is, that districts not keeping the school for the time specified, shall forfeit its proportion of the interest of the public fund.

I should much rather leave it to the Legislature to attach some other penalty, or that we should fix some other penalty in the section. The Massachusetts law requires that the district shall forfeit double the amount which they are behind, to be applied for the benefit of schools in the district.

Mr. W. here went into an examination of the statistics bearing upon the subject of the revenue and taxation by which the present system of education was supported, for the purpose of showing that it requires a less amount to sustain schools upon the free principle than upon any other.

The question being upon Mr. VAN VALKENBURGH's motion, it was put and lost.

Mr. ALVORD moved to strike out all after the word "year," in the 4th line of the amendment, to the word, "and," in the 6th line. His object in making the motion was to leave the section as it ought to be left, divested of detail; so that the Legislature could make all necessary regulations in regard to this subject. It seemed to him to be entirely useless to go into a matter of detail in a constitutional provision.

Mr. CRARY hoped the amendment just

now proposed, would not prevail. He had drawn up an amendment more stringent in its provisions than the section as it now stands. He thought a district should keep the school for three months, or not get any at all. If we made it obligatory upon them in a constitutional provision, they would know that they were under the necessity of keeping the school for three months in the year.

Mr. WALKER found some serious difficulties in the amendment, [Mr. FRALICK's.] In one part it proposed that the Legislature should provide for the keeping of schools, &c. We then provided that the Legislature might levy a tax on the whole taxable property of the State, if they saw fit. Well, if the amount which the Legislature proposed to raise was not sufficient to support the schools, the township would forfeit the fund.

Mr. FRALICK thought the townships had nothing to do with the question, whatever; they never had. He conceived that the gentleman had mistaken the question.

Mr. ALVORD here withdrew his amendment.

Mr. CRARY moved to amend the amendment in the following manner, viz: to strike out all after the word "and," in the 4th line, to the word "and," in the 6th line, and insert "any school district neglecting to keep up and support a school wherein instruction in the English language is conducted, for three months in each year, shall be deprived, for the year next succeeding, of its equal proportion of the income of the public fund."

The motion was agreed to.

Mr. WARDEN moved to amend the amendment by striking out the words "several townships or cities of this."

Mr. WALKER thought the principle would operate very unjustly to the new portions of the State. He had made an examination in regard to the amount of the school fund distributed in the different counties in the year 1849, and of the amount required to be raised for school purposes. By an examination of the tables (to be seen elsewhere) it would be found as an almost universal rule that the new counties would have to raise by taxation much more than the amount to be distributed to them out of the school fund.

In some counties they would be obliged to tax two cents on the dollar on the basis of the distribution. On that account he thought there was something due to that section of the State. From the many inconveniences to which the new counties were subjected, by the sparseness of their population, and the great expense which was attendant on the support of their schools, he considered it but just that they should have the benefit of the tax upon the non-resident lands. It was known that a larger number could be educated in a thickly populated portion of the State, and for a longer period, than in those parts which were thinly settled. He would state, however, that the county of Wayne would raise by taxation more than it would receive from the general fund. It resulted from taxation on the increased valuation of property in the city of Detroit, over the farming sections of the county. Macomb county, on the other hand, would receive three or four hundred dollars more, under the distribution of the general fund, than she would be obliged to raise by taxation. The new counties ought to have the benefit of the tax on the non-resident lands, to be applied to the support of their schools. They would necessarily have to undergo many inconveniences from their situation—their schools would be small, and consequently it would require much more to educate their scholars than in the older settled counties.

Mr. N. PIERCE did not agree with the gentleman last up in what he said relative to the hardships to which new settled counties were subject. He thought such inconveniences as were alluded to, merely temporary. He wanted to know why a county with five hundred inhabitants must tax the whole non-resident land. He would like to be informed why a county should take his land, for instance, and tax it where he sent no children to school. He had yet to learn that the children of one county could not be as well educated as another. If Macomb county could not raise sufficient money, he would say take it from the State tax; so in regard to Calhoun or any other county. It was a State policy he desired to see adopted in this matter; one by which the blessings of education would be diffused amongst all.

Mr. STURGIS was in favor of raising a State tax for educational purposes, and not a county or township tax. There were many counties possessing a large amount of taxable property, that had in reality no more scholars to educate than those not possessing one-half that amount.

Mr. WILLIAMS desired to observe all courtesy towards gentlemen on this floor. He would be allowed to say, however, that there was such a thing as theory, and such a thing as practice. He desired to have a State tax, in order to have justice done to both the settled and the unsettled portions of the State. He would put it to gentlemen and ask, if we enjoined the people of the counties to assess themselves, would they get anything more than they would get under a State assessment? The people of each county sparsely populated would assess themselves just enough to educate their own children, and would let an immense amount of property go untaxed. Thus the whole State must lose.

There was one difficulty which occurred to him as conclusive on this whole matter of putting this tax upon any smaller district than the entire State. The matter was very fully discussed in committee of the whole. The difficulty was in effect this: in New York the system which was adopted, required that the schools should be supported largely by taxation of the individual, and enough raised to keep up a school for a given number of months in the year. What was the result? Simply this; the rich and the poor were arrayed against each other, and the childless were opposed to those who had children. How much money should be raised was a subject of fierce contention; sometimes one kind, and sometimes another kind of people resisting. Those who paid the least, generally resisted the most. As well as he recollected, the gentleman from Calhoun [Mr. J. D. PIERCE] had had a letter from a distinguished friend of education, in which he referred to the difficulty then existing in the State of N. Y., in relation to this school question, and stated that the whole State was rife with these difficulties, creating almost universal excitement.

Here, then, were two objections fatal to the views advanced by the chairman of the committee on education. Any plan that

was impracticable was not only unjust to that portion of the State for which all his sympathies were excited, but was also an injury to the whole State. He believed that the whole State should support every portion of its government, and necessarily to educate the whole people. He laid it down as an axiom that the whole property should educate the whole people.

Again, we could probably tax the whole property of the State on some uniform and general plan more economically, and distribute it in the already necessary distribution of the primary school fund, with less waste than upon any other plan whatever. Not only so, but if we left it to townships and counties, the administration would be always conflicting and unsatisfactory. If we had forty assessments, by forty counties for the school tax, we should have just as many different school systems.

He would go for any uniform system that reached every person in the State, and taxed equally all the property of the State; and in his opinion it was the duty of the committee to construct and organize a system that was efficient, just, comprehensive and more than all, perfectly practicable.

Mr. FRALICK said, it appeared to him that the gentleman had misconceived the question. It appeared by his argument that this matter of taxation was to be left to the counties or townships. The gentleman was wrong there. It was to be a tax levied by the Legislature.

Mr. WILLIAMS—I was arguing a different question. The question now under consideration is whether you make it a local or a State tax.

Mr. FRALICK (continuing)—thought he understood the gentleman's argument. It amounted to the same thing, for it was still a State tax; the only difference was as to the distribution of the money in the township. He did not desire to make a great State system whereby the money would have to go through a dozen toll gates, every man having something off it. He wanted to have the money available whenever it was required, for in fact the school fund went through so many operations now, that we got it when the teacher should have been paid five months previous. Instead of getting it in the winter, they did not receive it until June. What

he particularly desired was, that the money raised in a township remain in it, so that it might be always available.

Mr. HANSCOM was of opinion that both the systems proposed were wrong. He was in favor of leaving the Legislature to determine how this tax should be raised. Let them try one mode of taxation first, and if that did not work well, they could then try another.

Mr. BUSH was in favor of having a tax imposed upon all the taxable property of the State, to be fairly and equitably distributed, so that every scholar should have his quota.

On motion of Mr. MOORE, the committee rose, reported progress and asked and obtained leave to sit again.

On motion of Mr. DANFORTH, the Convention adjourned.

WEDNESDAY, (38th day,) July 24.

The Convention met pursuant to adjournment, and was called to order by the President.

Prayer by the Rev. Mr. TOOKER.

REPORTS.

Mr. BRITAIN, from the committee on finance and taxation, submitted

ARTICLE —.

Finance and Taxation.

Sec. 1. 1st. All specific taxes shall be applied in paying the interest of the university and primary school funds, in defraying the current expenses of the State, and in paying the interest of the State debt, in the order herein recited.

2d. The Legislature shall provide for an annual tax, sufficient, with other resources of the State, to pay the estimated expenses of the State, and the interest of the State debt.

3d. The Legislature shall also, by taxes, supply any deficiency which may occur in the resources of the State.

Sec. 2. 1st. The Legislature, in addition to the above named taxes, shall provide by law for a sinking fund, of at least twenty thousand dollars a year, to commence in eighteen hundred and fifty-one, with compound interest at six per cent. per annum, and an annual increase of at least five per cent.

2d. Said sinking fund shall be applied

solely to the payment and extinguishment of the principal of the State debt, other than the amounts due to the university and primary school funds, and said tax shall be continued so long as shall be necessary to secure the extinguishment of the existing funded and fundable debt.

3d. Said fundable debt may only be funded or redeemed at a value not exceeding that established by law in eighteen hundred and forty-eight.

Sec. 3. The State may, to meet casual deficits or failures in revenue, or expenses not provided for, contract debts; but such debts, direct and contingent, shall not in the aggregate at any one time exceed thousand dollars; and the moneys arising from the loans creating such debts shall be applied to the purposes for which they were obtained, or the payment of debts so contracted, and for no other purpose whatever.

Sec. 4. The State may contract debts to repel invasion, suppress insurrection, and defend the State in time of war; but the money arising from the contracting of such debts, shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever.

Sec. 5. No money shall be paid out of the treasury of this State, or any of its funds, or any of the funds under its management, except in pursuance of appropriations made by law.

Sec. 6. The credit of the State shall not in any manner be given, or loaned to, or in aid of, any individual, association, or corporation.

Sec. 7. No scrip, certificate or other evidence of State indebtedness whatsoever, shall be issued, except for the redemption of stock previously issued, or for such debts as are expressly authorized in this article.

Sec. 8. The State shall never subscribe for, or become the owner of, or interested in, the stock of any company, association, or corporation.

Sec. 9. The State shall never be a party to or interested in any work of internal improvement, nor engaged in carrying out any such work, except in the expenditure of grants or donations of land, or other property made to the State.

Sec. 10. The State may continue to collect all specific taxes now accruing to the

treasury under existing laws. And the Legislature may provide for the collection of specific taxes from such banking, rail road, plank road and other corporations, hereafter formed or created, as they may deem expedient.

Sec. 11. The Legislature shall provide a uniform rule of taxation, except upon property paying specific taxes; and taxes shall be levied upon such property as the Legislature shall prescribe.

Sec. 12. All assessments hereafter authorized shall be made upon property at its cash value.

Sec. 13. The Legislature shall provide by law for an equalization of assessments upon all taxable property, except that paying specific taxes, by a State board, in eighteen hundred and fifty-one, and on every fifth year thereafter.

Sec. 14. Every law which imposes, continues or revives a tax, shall distinctly state the tax, and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such tax or object.

Which was read a first and second time by its title, referred to the committee of the whole and ordered printed.

MOTIONS AND RESOLUTIONS.

Mr. STOREY moved to recommit the article entitled "State Officers," to the committee on that subject, with instructions to insert the following therein, to stand as section six:

"Three Inspectors of the State Prison shall be elected at the general election which shall be held next after the adoption of this constitution, one of whom shall hold his office for two years, one for four years, and one for six years. The board of State canvassers shall on the first Monday of January next succeeding such general election, meet at the capitol and determine by lot which of said Inspectors shall hold his office for two years, which for four years, and which for six years. And there shall be one elected at each general election thereafter, who shall hold his office for six years. The Inspectors shall have the charge and superintendence of the State prison, and shall appoint all the officers therein. All vacancies in the office of Inspector shall be filled by the Governor till the next election."

On motion of Mr. HANSCOM, the same was laid upon the table.

On motion of Mr. J. BARTOW, the Convention then resolved itself into committee of the whole, and resumed the consideration of the article entitled "Education," Mr. McLEOD in the chair.

The question being upon Mr. WARDEN's amendment, the same prevailed.

Mr. FBALICK's amendment as amended, was then disagreed to.

The question then recurring upon Mr. CORNELL's substitute, offered on the 26th June last, which as amended, is as follows: "The Legislature may establish free schools throughout the State, and provide for their support. After applying the primary school fund and such other funds as shall be set apart for the support of such schools, the balance shall be raised by a State tax."

Mr. WITHERELL moved to strike out "shall" in fourth line, and insert "may."

There will (said Mr. W.) in a few years be a large fund at the disposal of the State. I should be disposed to leave it to be applied for this purpose, and if any necessity exists, a State tax might be levied.

Mr. GALE—I am opposed to any dictation of manner as to the way the Legislature shall act. By prescribing the manner it leaves nothing discretionary with the Legislature. I have drawn up a substitute which at a proper time I propose to offer, as follows: "The Legislature shall establish a system of primary schools within five years, and as nearly free as may be deemed practicable."

This (said Mr. G.) is free from all details. It leaves it discretionary with the Legislature, with instructions to make it as nearly free and at as early a period as is deemed practicable. If a State tax is deemed inexpedient, then a tax might be levied upon towns, cities and villages. If the latter is not so considered, then a State tax might be levied; but if we fasten a system upon the Legislature they have no other alternative but to follow it out as prescribed; and it might not prove the best mode.

The amendment of Mr. WITHERELL was lost.

Mr. COOK moved to strike out "State" in fourth line. Which motion was negatived.

On motion of Mr. J. D. PIERCE, the word "may" in first line, was stricken out, and "shall" inserted.

Mr. CORNELL's substitute was then disagreed to.

Mr. HANSCOM offered the following as a substitute for section three:

"The Legislature shall, within five years from the adoption of this constitution, provide by law for a system of primary schools, to be kept free and without charge for tuition to all children between the ages of four and twenty. Such schools to be kept at least three months in each year, in each school district of the State."

Mr. RAYNALE moved to strike out "within five years;" but the committee refused to strike out.

Mr. MASON—I am in favor of the proposition of Mr. HANSCOM, that we shall within five years adopt some system of free schools. In the course of five years the position of this State will be very much changed, and we cannot tell what will then be the best plan of taxation. I hope that if that is not adopted something similar will be.

Mr. WALKER—Before the question is taken upon the substitute, I wish to read my substitute. We have had a meeting of the committee and have unanimously agreed upon a substitute, to which I wish to call the attention of the House before action is taken upon the substitute of the gentleman from Oakland:

"The Legislature shall establish by law, a system of primary schools. Such schools shall be kept in each and every school district, for at least three months in each year, free and without charge for tuition, to all children between the ages of four and eighteen years. Any deficiency that may exist after the distribution of the income from the primary school fund, shall be raised by a tax upon the whole taxable property in the State. The English language shall be taught in such schools."

Mr. VAN VALKENBURGH—I hope that the substitute of my colleague will not prevail. We have had a meeting of the committee, and have agreed upon the substitute as read by the chairman, [Mr. WALKER.] After due consideration of the question, we came to the conclusion that the substitute will meet the views of a large majority of this body. I hope it will

be adopted. No time is limited when the Legislature shall carry it into effect. The committee thought it best to leave the subject to them. If limited and the time passed, they might say that the question is put to rest; therefore we thought it the best to leave it an open question, and thus meet the views as expressed in committee of the whole yesterday, and we were anxious to meet the views of the delegates and the requirements of the people. It is conceded that free schools are wanted, and should be supported by a universal tax throughout the State, and that free schools should be instituted as soon as practicable.

It has been remarked that schools should be free to all—that the children of the State were the property of the State—that the State was responsible for the education of its children. For that reason we think a State tax is the most proper, and would avoid many difficulties that would grow out of the levying of taxes on the towns and cities. It has been said that schools should be as free as the air we breathe, or the water we drink. Our sources of education should be like the rays of light, penetrating the darkness. If we adopt this system we shall see our State take an exalted position among our sister States of the Union.

Mr. HANSCOM—I do not like the substitute of the committee. With all due deference, it is, I think, subject to two objections: first, it says that all deficiencies that exist after the distribution of the income, shall be raised by a State tax. Now, sir, I would leave the Legislature to provide the taxation in the manner they deem best. We may get a donation of land from Congress; if so, it might be applied instead of a State tax. If they think that is the best way, they will do it; but I do not think they should be bound or limited in the mode of raising a tax. It imposes no imperative duty upon the Legislature, at all; it merely requires them to do it, without fixing a limitation when it shall be done. I will go further than my colleague, [Mr. VAN VALKENBURGH.] He talks loudly and largely, and does not take the means to consummate his object. I do not mean to talk so largely and leave it so vaguely. I wish to render it obligatory upon future legislators to make some provision to accomplish what we are seeking.

Mr. WALKER—It seems to me there is no such restriction required in the substitute; that there is no necessity for it. The gentleman says his proposition goes further than ours; that it requires that the Legislature shall do this within a certain length of time. Does it not exonerate the next Legislature from any attention to the subject? They might shield themselves that way. The amendment we propose makes it obligatory upon the first Legislature; if the first neglected their duty, it would be obligatory upon the next, and every subsequent Legislature, except you take away the oath to support the constitution of the State.

I think the proposition I have offered is preferable to that of the gentleman from Oakland. Upon the other question, whether any particular mode of raising taxes should be required, I might agree with him; but it has been the decision of the committee, and from the views that have been expressed we have become satisfied that no other proposition will prevail; therefore, we thought it best to have the tax upon the property of the State.

Mr. MOORE said—Mr chairman, this subject is one of the first importance, and I hope we shall not differ in principle or in detail. The details I am not so particular about, if the result is arrived at. The grand effort for us, is to establish schools free, or nearly so. The way or the details of the system I care little about, so the thing itself is accomplished. I would engraft in this constitution the principle of free schools. I would not leave it to the Legislature to fix it at some future day. It is practicable now for us to lay the plan whereby the children of the State can be educated.

I have an objection to the amendment sent up by the gentleman from Calhoun, [Mr. MORRISON.] It contemplates five years before this system can be brought about, and I have no disposition to delay this effort a day. This is the place and the time to provide for the system. I would not adopt the system of New England, although there it is the best, and no other, perhaps, would do so well; but our country is new, and things are not yet regulated. We have many new and thinly settled districts, where town taxes could not be raised, and of course it would be un-

equal. New England raises her fund by a town tax on property, and distributes in the districts from the towns. I hold in my hand some statistics of the common schools in New England, but I will not trouble the Convention by reading them now. I think Mr. Chairman, we are pretty well agreed that a State tax is the plan for us to adopt; and two mills to the dollar added to our present fund, will furnish four months more free schooling in each district than we have now. We raise now by general fund \$156,000, which affords a school five and a half months in the year. But it is not worth while to go into detail. I hope the committee will not let disagreement about the plan to be adopted, defeat a measure so desirable and so just as this. It is just not only to the children growing up in the State, but to the citizens, and to the character of the State, which stands the sixth State in the Union for intelligence—in reading and writing—as reported in our last census.

What has made New England what she is but her common schools—her school system? And here, let me say when New England had 2,000,000 inhabitants she had between 10 and 12,000 schools;—a school to every 200 persons.

Let me give some of the plain, simple reasons why we should establish free schools, or nearly free, so that, at any rate, every child would be free to go, and should go, and so numerous that a school house would be within the reach of all. The management, however, should be left to the districts themselves, so as to sustain the interest felt in the schools by all classes; and the fund should only be distributed to those that would try to avail themselves of its benefits. You lay it down as a principle, that the man who does not try to help himself, should not be helped. So in a measure with school districts; but by all means give them the opportunity; bring education to their door, to their very threshold.

The tax should be on the property of the whole State, and distributed by the school officers of the State as the other fund is, and to those districts which will avail themselves of it; for, I say again, that unless the people themselves enter into it, all the money you give will not accomplish the object. The interest and earnestness with which the districts engage in it,

is of as much consequence as the money appropriated. The tax, I say again, should be on property, so the poor would be saved from a burden, which otherwise might be too heavy, and the rich secure the most ample protection, on their property, by the diffusion of intelligence and morals among all classes.

1st. Every holder of property has a direct interest, in a pecuniary point of view, in educating the masses. For every law upon which the value of property or the peace of society depends, will, in a few years, be at the disposal of the children growing up in the State. The amount of vice and crime, and the expense of prosecuting and punishing criminals will be diminished in proportion to the intelligence of the community. Ignorance is idle and unthrifty; it is the father of vice. Uneducated mind is educated vice.

Intelligent labor is doubly as productive to the State as the tool of the ignorant. Witness New England; look at her manufactories, her mechanical labor, her inventions, in short, her innumerable commodities, with which she fills this whole earth. There is not, perhaps, a country on the globe where her arts have not been introduced. And why is it? Because she started with a universal system of free schools. Nothing else ever laid the foundation of her prosperity. And so let it establish ours. We have infinitely a better soil, abundance of water power, and every variety of climate, and can grow almost every variety of the world's products. Now, with all these advantages, let us engraft in the constitution such a system as will secure to the rising generation equal rights in education, as well as equal rights in political, civil and religious liberty. Then, I say, if all property holders are to share in the advantages, they may well and fairly be asked to contribute to the result.

2d. It is the duty of the State to provide for the education of all its children. The existence and safety and wealth of the State depend upon it. It is the first duty of government to protect the lives and property of her people.

If the property and safety of society demand universal education, it is the duty of the State to provide it. If she has a right to lay a tax for the suppression of crime and idleness, by erecting prisons and houses

of correction, she certainly has a right to do the same for the prevention of crimes, by schools.

3d. These common schools are of exceeding value by way of bringing forward and cultivating minds of great worth, that had otherwise laid forever buried in the obscurity of poverty. They are like scientific surveys for the discovery of the mineral resources of the State. A large number of the very first men of New England would never have been raised to notice, but for the exploring system of common schools, where the rich and the poor meet together without any degrading distinctions; and only mind tugs with mind all over the commonwealth, year after year. If there is one rare intellect in any corner of the State, it will be brought to light and developed; and many such coming up from all quarters, will enhance greatly the literary character and wealth of the State.

4th. Free schools have a powerful influence in disseminating the principles of true *democracy*. Where on earth is there such a practical demonstration of the doctrine that "all men are born free and equal," as in the school house under a free school system—where every barefooted urchin may have the same teacher, the same books, and set on the same seat with the most fortunate heir in the town—may stand at the head of his class and take the precedence over all that wealth and rank can array against him, if only God has given him the better mind, or the more diligent disposition? It ennobles and encourages the poor boy, and fires him with such thoughts of the dignity of a human soul that tyrants can never after oppress him with impunity. It corrects, too, the thoughtlessness of the rich by the standard of mind, and teaches them to reckon rank by the Roman rule of merit.

5th. A general tax is on many accounts the best mode of providing public schools. When every man pays his money he will feel an interest, and the interest thus awakened all over the State, is worth the amount of the tax, to say nothing of the instruction given to the children. Besides, as men come to understand the doctrine upon which the right to thus tax them is based, and see the principle satisfactorily illustrated they will discover also that they have in many other respects mutual inte-

rests; and so, public spirit, so necessary to general improvement, will be more and more promoted. This system, too, has the merit of providing for the education of the poor, without any of those personal distinctions that degrade.

6th. It is particularly incumbent upon Michigan to provide a system of free schools. She has invested a large sum already in such a way that much of its value and prospects to the State must be forever lost without a free school system.

There stands our University at Ann Arbor, amply endowed, like a great flour mill, well built, and all ready to grind in a country where there has been as yet, little or no provision made for raising the wheat. That University will forever lose half its utility to the State, without the common school system to explore every opening and prairie, and kindle up the latent genius that is slumbering in log cabins all over the land. Such minds once taught, will, by comparison and competition with others, create the appetite for knowledge, and from the district school will find their way to the fountain your State has so munificently opened to all her sons. Michigan has built up one side of the most liberal structure for education in any State—it only remains to complete the other side, and so perfect the edifice. And it should be particularly noticed that it is the aristocratic side that now stands (a college) for the few; while the popular side (common schools for the people) is neglected. If, while the aristocratic enterprise finds favor everywhere, the democratic cause should want friends, the spectacle would be a singular calamity.

Mr. COMSTOCK thought that this body should profit by experience, and not go into detail, as the Legislature could better carry out the details of the measure—better if left to their discretion than having one line marked out in the fundamental law, from which they would not be able to deviate. He was in favor of the proposition of the gentleman from Oakland, that the plan might be carried out by the people. When we looked at a neighboring State and saw their system denounced, we should be content to fix just bounds, and the rest should be left to the people through their Legislature.

Mr. MORRISON offered the following as a substitute for section 3:

"The Legislature shall provide by law that in the year 1855, and every year thereafter, a general tax shall be levied in the State for the support of primary schools, not exceeding five mills upon each dollar of the valuation of the taxable property in the State. Such tax to be levied and collected in the same manner as the general State tax for State purposes, and apportioned for the support of primary schools throughout the State, in the same manner as the primary school interest fund, and shall provide that during the time required to expend the amount thus apportioned among the several districts, a school shall be kept in such district, without any charge for tuition, to all scholars residing in such district between the ages of four and twenty-one years; and the instruction in such schools shall be conducted in the English language."

Mr. M. said—The proposition is that in 1855 the Legislature may fix a tax not to exceed five mills on the dollar. My object is to permit the people to feel the benefit of the reforms that we have made; for if we impose a heavy State tax, the burdens will be increased instead of diminished; therefore I wish the matter postponed until the year 1855. Yet, it does not prevent the Legislature from establishing schools earlier, if it is deemed expedient; nor does it prevent them raising a part of the tax, or the whole, before that time.

The amount of the interest upon the public fund was \$52,000; the average time that schools were taught was nearly five and a half months; these, if taught by female teachers for three months, would cost \$59,320, leaving only a deficiency of \$6,320; if taught by male teachers, the amount would be \$77,500. Now, by raising one mill upon the dollar, we shall raise a tax of \$28,000; of two mills, \$56,000; of three mills, \$84,000; which would render nearly every school in the State free for three months in the year. Supposing our property to be \$30,000,000, a tax of five mills would be \$150,000, a sum sufficiently large to keep the schools for four months in the year.

My object in proposing this substitute was, that as it appeared to be the wish of the Convention to raise it by a State tax, I

knew no other way that it could be done, except by a specific tax—a mill tax, for instance; and after this, if the constitution provides that we shall have a State board for the purpose of equalizing property throughout the State, probably it would amount to \$60,000,000; that would then amount to \$300,000; and if it came to \$100,000,000, we shall have from this source an income of half a million; this, then to be apportioned among the districts with the interest of the primary school fund; and thus the difficulties that have been raised in regard to the revenue would cease; it would then be the interest of no one to break down the primary schools. If the tax was levied three months before the public money was given, the money would have been paid, and men would build up their primary schools.

It will be for the interest of the districts to make the best terms they can with the teachers, and keep them as long as they can. There may be sufficient to keep one school six months; it should then be applied to that six months. To another three months. One may require double the salary for a teacher that another has to pay. The money received by the schools should be equal; and they should not employ teachers to whom they would have to pay a large salary.

Mr. WILLIAMS—It seems that there are almost as many different opinions as there are men in this Convention. In view of this fact, the chairman called the committee together. It was found that while the committee disagreed on some topics, there were some principles upon which all agreed, and these are embodied in the proposition now offered by the chairman. We agreed on "free schools—three months term in all districts—no charge for tuition—the English language to be necessarily taught." In regard to taxation, the mode and manner we could not agree; but we could agree that all the property of the State should be reached by taxation for this purpose, and should bear some how its equal and just share of the burden. For himself he believed that the tax should be levied by the authorities of the State. He would not leave the system and the whole success of the system, at the mercy of either district, town or county.

The proposition of the gentleman from

Oakland leaves it in discretion of legislation to say whether every locality should not assess the tax to suit its convenience. If each district can do as it pleases, it can destroy the efficiency of the system as applicable to itself. Now, if we need and want a free school system at all, we want it most for those districts that would meet its requisitions with the greatest reluctance. The most backward, the most ignorant, the most indifferent, are the very portion of the population we wish to enlighten. The State wishes to stretch its paternal arm around them. It wishes to educate all, willing and unwilling. To obviate all difficulties, for himself, whatever taxes are laid, he thought ought to be imposed and assessed by one authority, embracing the whole State.

With regard to the suggestions of the gentleman from Oakland, [Mr. HANSCOM,] that the proposition of the chairman of the committee was deficient, because there might be other resources besides the income of the primary school fund, he did not think they had much force. If the Legislature can afford any sum at any time to increase the means, they can make them a part and parcel of that fund by legal enactment. If we should obtain lands from the general government—if justice long delayed should be meted to us, and the million or more of acres due (the general government being as liberal to us as to our sister States) is at last conceded, either to the demands of our delegation or to the prayer of the memorial of this Convention, now in preparation by the gentleman from Wayne, [Mr. BACKUS,] then such lands, or a part of them should, by the terms of the grant of Congress, be made a part of the primary school fund.

If he remembered the language of the substitute of the chairman, it was this: "Any deficiency that may exist after the distribution of the income from the primary school fund, shall be raised by a tax on the whole taxable property of the State;" thus fixing the principle that all the property of the State should be equally taxed, but leaving the mode and the distribution to be determined by the Legislature. Whatever his private views were, he felt bound to concur with the committee. He believed half the members of the House had plans drawn up, and to meet each

man's views was impossible. On such a basis as the committee have conceded to, a system of free schools can certainly be created which will be efficient, practical and comprehensive.

Mr. ORR said—Mr. Chairman, I cannot, as the representative of one of the new counties, suffer this very important question to come to a vote without at least an expression of my opinion on a subject which so directly interests my constituents. I have the honor, sir, to hold a seat on this floor through the partiality of my immediate constituents in the county of Barry. But, sir, while I represent the county of Barry in this Convention, I claim as my constituency the undivided one-hundredth part of the people of this State. And, sir, as it has been my constant endeavor during our deliberations in this body to support such measures as would advance the great interest of the State at large, I must be permitted on this occasion to express my disapprobation of this or any other measure that would in the least degree be prejudicial to the new counties, and particularly to the county I represent in this Convention.

This proposition has for its object, sir, to rob the new and sparsely populated counties of this State of a portion of the money raised in such counties, for educational purposes, and give it to the older and more densely settled portions of the State. Gentlemen propose to raise a State tax of two mills on the dollar of the valuation of all the taxable property of the State. This tax they would raise on the basis of taxable property, making each county contribute to the general fund according to their several ability. This, they say, shall constitute a State fund for the support of free schools. But, sir, they propose to make the distribution on a very different system. They would distribute this money among the several counties of this State, according to the number of children between the ages of four and eighteen, reported by the different county clerks to the office of the Superintendent of Public Instruction.

Now, sir, it must be remembered that the more populous counties return more scholars to the above office in proportion to their taxable property, than are returned by the new and thinly settled counties.

Consequently, on this system they would receive more money than they contributed, while the new counties would contribute more money than they would again receive. The proposition now under consideration would have this effect, sir; and I believe it to be unjust and oppressive. I hope, sir, it will not prevail.

Mr. Chairman, it is claimed here by some gentlemen that this discrepancy in valuation compared with the number of children reported to the office of the Superintendent of Public Instruction, arises in consequence of the great amount of non-resident land lying in some of the new counties. This, sir, is true; there being neither family nor scholars to represent this species of property. But is this the fault of the new counties? I think not, sir. The most of this non-resident land was located at a very early day; and being generally of the best quality, it is held at so high a price that the industrious poor man seeking a home in this State could not afford to purchase it. He was, therefore, absolutely compelled to buy government land at a cheaper price, wherever he could find it interspersed with large and numerous tracts of non-resident land. This state of things is very inconvenient to the actual settlers. The settlements are, in consequence of this, located in different parts of the county, entirely detached from each other, separated by large tracts of uncultivated land, and often by interminable forests.

Now, sir, it will not be pretended that citizens of a new county, thus situated, can educate their children with the same facility or economy as those living in better settled and more populous counties. Therefore I hold, sir, that if this non-resident land interposes any obstacles to cheap and economical schools in the new counties, they should enjoy the exclusive advantage of taxing this kind of property for educational purposes.

There appears to be but very little difference of opinion, sir, in this Convention about the propriety of providing in this constitution for the encouragement of primary schools. But gentlemen of this Convention seem strangely partial to the name of "free" schools. There is something fascinating, sir, even in the name. But if a system of free schools is not at-

tainable—if such a system is not practicable—why pursue in such hot haste the empty name, and lose sight entirely of the reality? Why not be satisfied with giving suitable encouragement to our schools—such encouragement, sir, as the circumstances of our people will warrant? Why raise a great State tax? Why collect and gather it from the different townships and counties of the State on the basis of taxable property, and in making your distribution parcel it out on a different basis, to wit: according to the number of scholars reported to the office of the Superintendent of Public Instruction? This, sir, is the proposition.

A three mill tax assessed on all the taxable property of the State, would, together with the annual interest of the primary school fund, afford pretty good encouragement. This should be assessed annually by the supervisor of every township in the State; and when the money is collected it should belong exclusively to the township in which it is raised, and should be appropriated religiously to the support of primary schools. This plan would give to every township its own money, and no more. This plan, sir, being reasonable and just, cannot fail to be satisfactory to all portions of the State.

Again, one dollar per scholar might support a free school for a term of three months in one of the older counties, such as Oakland, Washtenaw or Lenawee, while it would be totally inadequate in Allegan, Barry or Ionia. Therefore, sir, I hold that it would be both unjust and oppressive to compel any one of the new counties to raise money to aid in support of free schools in the older counties, and that too, sir, when they already enjoy better facilities for education. But, sir, for the purpose of illustrating this subject more clearly and forcibly, I will here exhibit some statistics which I have prepared on this subject. I have grouped together the counties of Allegan, Barry and Clinton, as a fair average of the new counties; and Jackson, Kalamazoo and Lenawee as a fair average of the old counties; and by calculation it will be seen, sir, that the first three counties would each contribute more than they will again receive, while the other three counties will receive more than they contribute.

By the State tax system, Allegan would lose in round numbers \$795; Barry \$155, and Clinton \$553; while the other three counties would each gain a proportionate sum of this money. For these reasons I hope, sir, that some other plan will be agreed upon, which, while it encourages our primary schools, will be less oppressive and more equal in its operations.

Mr. N. PIERCE—I think, sir, that the gentleman's reasoning goes to show that it is not upon equitable ground. If there are one hundred children to be educated in Barry county, and if there are four times that number in Lenawee county, with no more means to be taxed, then I say that the county of Barry should contribute her part; and I think that a different course would be improper and unfair. It has been said that there is a good deal of difficulty with regard to the words "free schools." The words "free schools," is like free government—like the word "democracy." What does that mean? It means a government by the people. But there are burdens to be borne, and we have actually to release a portion of our liberty for the benefit of the whole. You cannot establish a prosperous free school system, except you collect some tax out of the interested parties—except you charge something upon the persons sending the children to school—charging them sufficiently to make them parties in the case. I have never seen it otherwise, and I don't believe it can be done.

I am unwilling that any sweeping clause should be placed in the constitution without being limited. I think it should permit a State tax; then limit it, and provide that the remainder shall be raised by towns or districts; I care not which. We are all agreed in favor of free schools, and it sounds well in theory; but in carrying out the details we find out the objections. I do not believe that the people will pay five mills upon the dollar. My instructions are directly the reverse; that is, to lighten the burdens, and the present system of free schools is a good system, it has acted very prosperously. We have now a State tax of one mill, which, with the addition of the school fund, makes our schools to a certain extent, free; that is, it gives them the character of free schools.

Like every other member, I have my

views, and I should like to strike out of section three, all after the word "provide" at the end of the third line, to the word "and" in the line following. That would double the present State tax, by leaving it in the power of the Legislature to double the present tax of one mill. That would render them as free as we ought to make the schools. Then let the balance be raised as the wisdom of the Legislature may direct. The whole property of the State should be taxed equally for the education of the children of the State. I cannot see any propriety in limiting it to one county. A county that has a large estate and no children, should contribute accordingly, as an individual who is wealthy and without children has to educate the children in the town or district. If his county is as well educated as others, it works no injustice; it is applied like the primary school fund.

Now, sir, the school lands where I live are worth \$20 per acre; where he lives it is worth \$4 per acre; the money is put together and equally divided, and there of course, the new counties have the advantage. I think it will not be best for this Convention to direct the Legislature to impose a heavy tax. If the people should tell the House of Representatives not to do it, are we better than the next House of Representatives? I think not. Our system may be improved; but it is a good system. I think that there should be a State tax—a fixed amount, not entirely free for tuition. If the district spend \$100, the parents or guardians should at least contribute \$12. Otherwise, there would not be economy; therefore I think it would be better. I think if schools are free of tuition, it will cause difficulty and trouble. It has operated badly and was changed.

Mr. VAN VALKENBURGH—I am always sorry to find myself and my colleague [Mr. HANSCOM] at variance. With the exalted opinion that I have of his opinion and good judgment, it makes me diffident of myself. I hoped that we might work shoulder to shoulder, together in the great cause of education—that we might act in unison together, and I have no doubt that he is devoted to the cause, and that he thinks the plan he has recommended will work out the most advantageous result. My colleague tells me that I talk loud and long. I believe that he talks as

loud as I can, while he has the advantage of me in finesse and management, for if any gentleman has the faculty of making the worst the better cause, it is my colleague. My colleague tells you that it is putting it off for five long years. The committee came to the conclusion that the proposition of the gentleman from Oakland would put it off for five years. And if the Legislature refuses to obey the instruction, what will be the condition of the State? Will it not put off this question interminably—it may be until the formation of another constitution? He urges as a reason, that it will put off the system so long. Well, sir, when the question was upon the subject of pay, three dollars being inserted instead of two, he made a speech—one in which he said that his constituents would denounce him as a demagogue if he supported the measure. Well, sir, in conversation with me, he told me forsooth, that the committee wanted to strike out three and insert four. That was his argument. Now, the argument is, we are putting it off for five years—not fixing a time. Now, we take the position that he is putting it off too long; we wish to have the provision incorporated in the Constitution, and have it acted upon as soon as can be, consistently with the interest of the State. My friend from the three rivers, has said there must be some concession. The Committee have taken this into consideration, and submitted this substitute to the committee of the whole.

The gentleman from Calhoun [Mr. N. PIERCE] says that some little tax must be imposed upon the districts to make them interested. Will not a tax upon the whole which every individual is bound to pay, make them interested? Will they not see that the money is properly appropriated, and is not his argument fully answered?

Mr. HANSCOM—I regret that my colleague has taken a remark to himself which I designed generally. I referred to all electioneering efforts about the blessings of education, &c., which seemed to me rather out of place; designed for home consumption rather than any particular benefit of those who heard it.

Mr. CHURCH moved to strike out in Mr. HANSCOM's substitute, after "constitution," and insert "establish a system of common schools, in which the instruc-

tion shall be conducted in the English language, and shall be free of charge to pupils between the ages of four and eighteen years, at least three months in each year, in each school district in the State, and shall provide by law for the support of such schools by a tax or taxes upon property."

The difference in the two propositions, (said Mr. C.) consists in the latter clause. Mine goes further than that of the gentleman from Oakland, in this respect, that it provides for a tax or taxes upon property; but does not designate whether it shall be State, town, district or county tax. There can be no agreement about the kind of tax; there are objections to every plan—objections so serious that probably this Convention cannot be brought to agree to any proposed plan.

Mr. WILLIAMS—If he understood the gentleman from Kent, [Mr. CHURCH,] he was willing to base a free school system on taxation in the districts, similar to the method in New York. Now, if the gentleman from Jackson [Mr. CORNELL] had the evidence showing the almost fatal operation of that part of the New York system, he hoped it would be adduced. The jealousies, heart-burnings and obstinacy in districts had, he understood, rendered the New York system almost impracticable, and in that State they were about re-constructing their whole system. Yet the gentleman from Kent, he thought, was willing to risk the same experiment among ourselves.

Mr. WHIPPLE—I would ask whether the instruction shall be given exclusively in the English language?

The CHAIR read—"Instruction shall be in the English language."

Mr. WHIPPLE—By that term you would render it impossible for any language except the English to be taught in the common schools.

Mr. CHURCH—I do not understand the gentleman. Does he think that we are going to speak French, Spanish or Irish in the common schools?

Mr. WHIPPLE—Yes sir, I do. In the counties of Branch and St. Joseph, not only the English, but German and French languages are taught; and it is a most valuable improvement of the common school system. I do not mean the dead language

ges, but the modern ones should be taught; and it seems to me that this amendment will put it out of the power of thousands of children to gain a knowledge of the French and German languages.

Mr. J. D. PIERCE—In some schools latin has been taught; I have taught it in a common school. I would not adopt any provision by which any knowledge would be excluded. I would make it imperative that the English language should be taught.

Mr. GOODWIN—I do not think that it excludes the other languages.

Mr. CHURCH—It means simply this: that no school shall draw the public money, in which the language used colloquially shall be other than the English.

Mr. J. D. PIERCE—We have so much distrust of future legislators that we cannot adopt a system that will be satisfactory. Do gentlemen think that all wisdom will die with us, or that the people will not send men to legislate, capable of taking care of their interests? All that we ought to do, is this: we should say the Legislature shall establish primary schools. We cannot go into detail.

Mr. GOODWIN would again remark that he did not think it prohibited the other languages being taught.

Mr. HANSCOM—In all the colleges is not the instruction given through the medium of the English language?

Mr. WHIPPLE—No sir. How could that be? I think it is impracticable, and that that mode of instruction will amount to nothing. I think it important that the great outlines of the system should be prescribed in this constitution. I have confidence in future legislators, but I wish their line of duty distinctly marked out. We have here a great deal of talent and practical experience, and it is proper that it should be brought to bear in the adjustment of this system; the time for which a school should be kept; the mode of instruction. I am opposed to confining a scholar to the use of the English language. We can as well determine these points as future legislators. The same reasons will exist then as now.

Mr. J. D. PIERCE—I am willing that the first principles should be fixed; but we may adopt some principles that may not work with justice. If the Legislature

adopts any measure, they can alter or amend it, we cannot.

Mr. GALE—The measure appears to me perfectly impracticable—to make it obligatory upon the Legislature to make schools free for even three months. Let us look for a moment at practical men carrying it out with practical experience. Let us have a school of fifteen scholars, and we know that in new counties there are many schools with not more than fifteen scholars, on account of the sparse population. Fifteen scholars require a teacher; if they pay him \$20 per month for three months, (\$25 would not be high) and nothing has been said with regard to fuel or other incidental matters—we have \$60 for fifteen scholars, which is at the rate of \$4 per scholar. Another school in the same town or county, or State, may have 100 scholars, they may keep school the year round, and if they give their teacher \$20 per month, that will only be \$2,40; if they give \$25, there will still be 100 left; yet, if we make a system of free schools, we should make them as nearly equal as we can practically. We should give them as much per scholar as will sustain and support a school of 30, 40, or 50 scholars. But, sir, the school of 15 may require as competent a teacher as the school of 100. Now, I would ask, if the people will submit to legislation of this kind and character? I believe that they will not, and that we should fix no time that the schools should be perfectly free.

Gentlemen do not reflect upon the practicability of the thing. There are none more desirous than I am for free schools, if I thought it practicable. There are many things fine in theory, which cannot be practiced; and we should endeavor to avoid theoretical legislation. If you decide that all schools shall be perfectly free, they can then have a teacher, and pay him what they choose, draw upon the town or the county for the sum, and the smallest will be entitled to draw as much as the largest. If you say that they may draw so much per scholar, you should give them some provision whereby they can make up the deficiency upon the taxable property in the district, or by some other means.

I am opposed to the substitute of the gentleman from Oakland, because it limits

the ages from 4 to 20 years. Why not say 21? People are practically in the habit of sending their children until they are 21. It is the duty of a parent to provide education, even if a son is in his 21st year, and yet for that year he must pay.

Mr. HANSCOM thought that every system, according to the gentleman from Genesee, was perfectly impracticable. He manifests deep anxiety, but is unwilling to do any thing whatever. It would surely be possible for the Legislature to carry out the details of a system, and make the apportionment as nearly equal as possible. Every school might not be free, but it would be a near approximation to it. If we only looked to the dangers and all the possibly bad effects which, perhaps, have no real existence, we shall never be able to get a system at all.

Mr. CHAPEL—I think the proposition of the gentleman from Oakland is as near as we can fix it, except we go into detail. I think that details might be gone into that would satisfy every gentleman in this Convention. I cannot see the difficulty. The gentleman from Genesee tells us that it will be unequal. If the money taxed in each county can be distributed to each school in the county, giving the supervision to the supervisors in their own county, to so distribute, it cannot be liable to any serious objection. There are the records in the State offices to find out the number of scholars in each county, and get at the amount of property taxed for school purposes in the county; then add to that the amount they are entitled to receive on the school fund, and divide it equally. They have had their property taxed, they have had their schools returned, and it works equally. Then give the districts power to raise a tax, if they wish to go further. The difficulty seems to be to fix a proper time. I think three months is a proper time. \$29,000,000, the value of the property of the State, with a tax of three mills, gives \$87,000; the amount of public money, \$52,305; making the sum of \$139,305. There are 3,060 districts, containing about 100,000 scholars; divide the amount of money equally for the purpose of having a free school, and it will give \$1 21 per scholar; and that will keep a school three months.

Mr. CORNELL—The gentleman from

Genesee, (Mr. GALE) has made a calculation, and upon that has expressed his belief that the people would not be willing to pay what was required. He forgets, that in the small schools a teacher is employed, where compensation at the most is \$2. per week; if a female teacher is employed only half the time, the estimate would fall far below his computation.

Mr. FRALICK—It appears necessary here to get up something new without going into detail or showing a good reason why we should do so. I am not satisfied or willing to vote for a change except it is evidently for the better, something better than merely a theoretical view. We hear a great deal of fault found with our present system, and at the same time, I do not believe there is a better system in the United States, and until we can get something better, we should keep what we have. The present system works well; the latest reports show that our schools are in as good a condition as any State in the Union, and the children are as well educated as in any other State. Yet our present system must be sacrificed to a mere theory—to the oft repeated cry that the children of the State are the property of the State, that they must all be taught, putting all in jeopardy and confusion by the experiments of a free education. Take the same ground on other questions. Are gentlemen willing to pay for the expense of trying Criminals by a state tax? It would be a great saving to our County if they would. Wayne County has convicted half the criminals and paid half the expense of the State, in that respect. Do members wish to make it a State tax? If so, then I will also go for the system. I have heard no proposition that it shall be paid by a State tax. We have a large amount of paupers of the State to support in Wayne County, but I have heard no proposition about supporting them by a State tax, not a word. Upon the contrary, after we have convicted the criminals, then they make us bring them to Jackson; we pay the expense and they are silent; but when the question comes up that they shall take our property for the benefit of their schools, they are universally in favor of it, for it works to their advantage.

This will be injurious to every new County in the State. I have made a small

statement showing the result, or bearing of a State tax as proposed in a three months' school:

Counties.	Loss.	Gain.
Allegan,	\$1,101 00	
Barry,	317 00	
Berrien,	175 00	
Branch,		\$633 00
Calhoun,	320 00	
Cass,		3 00
Chippewa,	177 00	
Clinton,	822 00	
Eaton,		306 00
Genesee,		550 00
Hillsdale,		715 00
Ingham,	282 00	
Ionia,	192 00	
Jackson,	121 00	
Kalamazoo,		759 00
Kent,	148 00	
Lapeer,		390 00
Lenawee,		701 00
Livingston,		1,271 00
Mackinac,	204 00	
Macomb,		1,271 00
Monroe,		582 00
Oakland,		631 00
Ottawa,	1,082 00	
Saginaw,	873 00	
Shiawassee,	7 00	
St. Clair,	740 00	
St. Joseph,	52 00	
Van Buren,	546 00	
Washtenaw,	125 00	
Wayne,	1,904 00	

Is it right that the new counties shall be taxed for the benefit of the older counties, which have the lands taken up and settled, and where it does not cost as much to keep a school, owing to the population being more dense?

I am not willing to adopt a new system because of the word "free," a theory which we cannot reduce to practice. The taxable property of the State will be about \$100,000,000—a one mill tax will give us \$100,000; that added to the school fund will give us a three months' school. I have heard not one word of complaint, except in regard to the districts; and we had better refer it to the Legislature to amend the present system by legislative enactment.

Mr. BUSH—I arise to correct a statement of the gentleman from Wayne; he is generally very correct. He says he has

never heard a proposition to pay for the conviction of the criminals of Wayne. The parents produce the children, feed and clothe them, the State educates them. The county of Wayne produces the criminal, tries and convicts him, and the State pays the expense of keeping them. I am satisfied that our opinions are so diverse, that we cannot adopt a system of detail. I am in favor of the measure proposed by the gentleman from Oakland, or something like it. One argument that should have great weight is, that the Legislature can alter and amend; they can profit by the light of experience, and remedy errors that may have been committed.

The question being on Mr. CHURCH'S amendment, it was lost.

The question then being on Mr. HANSCOM'S substitute, the substitute was lost.

The proposition then recurring upon the substitute of Mr. WALKER,

On motion of Mr. WOODMAN, "eighteen" was stricken out, and "twenty-one" inserted.

Mr. CRARY moved to strike out all after "tax;" but the committee refused to strike out.

Mr. N. PIERCE moved to strike out "and without any charge for tuition."

Mr. WALKER—I have a word or two to say. I prefer to have gentlemen come out and state their grounds openly. I once heard a temperance lecturer say that once when giving a lecture, he saw a man going by with a bottle under his cloak; the conclusion he came to, was that he was doing good, as they had to hide their rum bottles. Now, it seems to me there is a great deal of hiding the bottle under the cloak. Gentlemen attack the free school system indirectly; they do not say we are directly opposed to it, but they will bring every argument to bear indirectly against it. Now, I think this is indicative of the state of public feeling. The gentleman from Genesee [Mr. GALE] says that it is impracticable. The wisdom of Solomon, he said yesterday, could not devise the means of giving us a free school for three months. But the history of the New England States shows us that it can be so done. The difficulty is this, that certain things are by them considered to be part of the law, which this Convention does not. The gentlemen from Genesee, Wayne, Calhoun

and Lenawee, all seem to think that the schools will not be entirely free—that there shall be some charge for tuition—it may approximate, but they shall not be established as free schools by the fundamental law of the land. They had rather that “the Legislature may,”—that the present system works well.

Let us look at the operation of this system upon the poor. In 1838 we had from the interest of the school fund, some \$39,000; in '39, \$42,000, for the benefit of the children of the State. It was the intention that all should participate; but this is not applied for the purpose of keeping the school for any length of time, free—it is turned in for the support of the school. The balance being raised by a tax, and the person who has not property sufficient to pay his school tax, although he may have four, five or six children, cannot send them for one day, except they come under the poor act. This is the practical effect; and thus the poor man is deprived of the liberality of the United States, which granted the land for the purpose of education.

We were told on a former occasion that the pride of a king was in the multitude of his people. I would ask is not the pride of a Republic in the intelligence of its people? How long should we be a Republican government if we were deprived of schools? Or, if a great portion are withdrawn, the necessary consequence will follow. There will be a great gulph between the two classes; wealth and intelligence on the one hand, ignorance and poverty on the other. If we refuse to adopt the principle that all the children shall be educated, we undermine the basis upon which our government is instituted. Can a Republican government be sustained without intelligence? It may be attempted, but the pyramid is resting upon its apex, and the first political convulsion will overwhelm it into ruin. What has given the American people their success in government? education; it has opened every avenue to industry; suppressed crime; expanded the energies of all; if it taxes wealth, it creates wealth in the community. Why should our roads be made by a tax upon property?

Mr. CHURCH—Not a gentleman has opposed the tax upon property.

Mr. WALKER—They have carried the

bottle under the cloak; It might be said that the man who had ten children should work ten times the highway tax as the man who has no children. He travels the road ten times as much. So with poor houses; so with courts; so with prisons; for the wealthy, honest man, with no children, might say, I don't intend to commit crime; I want no poor house; I have no trials in the courts; let those pay for them that are poor; let them support them that may use them. This is the doctrine, if carried out. And I believe the support of all that I have named should be based upon property, because it is a general benefit to the whole community.

Mr. N. PIERCE denied the charge that he was opposed to primary schools. He did not want any untried system, but that the Legislature might have power to improve or alter. He did not think that people should be charged with illiberality or hostility to a system, because they did not choose to go through his machine.

On motion of Mr. VAN VALKENBURGH, the committee rose, reported progress, and asked leave to sit again.

The committee, through their chairman, reported the same back to the Convention, and asked leave to sit again.

Leave was granted.

Mr. CRARY moved that the Convention resolve itself into committee of the whole on the article entitled “Education.”

But the motion did not prevail.

On motion of Mr. WOODMAN, the Convention adjourned.

Afternoon Session.

The Convention was called to order by the PRESIDENT.

On motion of Mr. SUTHERLAND, the Convention resolved itself into committee of the whole on the article entitled “Education,” Mr. McLEOD in the chair.

The question being upon Mr. N. PIERCE's amendment to Mr. WALKER's substitute, the same was not agreed to.

Mr. REDFIELD moved to strike out “children between the ages of four and twenty-one years, and insert “persons.”

Mr. CHURCH supported the amendment. Married women, and that class of

persons that were nearly the age of twenty-one, could not be called children.

Mr. REDFIELD stated that the object of the proposition was to allow persons of all ages to attend school, instead of children.

Mr. CHURCH—I then cannot sustain the amendment. I am willing to concede that the children of the State and those who cannot labor should be educated by the State, so that in mature years they may be able to withstand temptation; but because that is granted it does not follow that persons of mature years should be educated at the expense of the people.

Where are the manual labor schools, about which lately so much was said? But there, at any rate, cannot be any propriety in educating persons who can by labor of six hours study six hours, without any help from the State. I therefore think that the amendment is objectionable in its present shape.

Mr. REDFIELD—The gentleman supposes an extreme case; it is so allowed in the State of New York, and I have heard no objection, as I have never known the privilege abused.

Mr. HANSCOM—I am opposed to striking out. I thought that the object was to train the youth of the State, not every person who wishes to go to school. Take an individual of the age of eighteen years, and if he has brains enough to make it worth while he can educate himself without being a burden upon the public.

Mr. WITHERELL saw no difficulty. There would be few found after that age that would wish to go to school. The difficulty was this: in a county where the population was sparse, there were not, and could not be any schools except the primary schools. If therefore any persons wished to be educated, they could not, except they hired a schoolmaster themselves, which was of course frequently impossible. Except they go free, they cannot go at all; and it is scarcely worth talking about as the cases will be very few where application is made. If they have arrived to mature years by their labor, they are adding to the property of the State; and I see no reason why they should be deprived of the benefit of attending common schools; and they should not be shut out from the only schools they can attend.

Mr. J. D. PIERCE—There is one objection: one school will probably only contain all the children between certain ages. If you admit others you may have to exclude them. I have never seen any objection where there is room. I have seen a person nearly 40 years old, attend school, and nobody thought of objecting; but there should be an objection, if any of the children are shut out.

Mr. SKINNER—I regret that so many of the prominent men of the Convention have seen fit thus far to withhold their views on the subject now under discussion. I deem it by far the most important topic that has occupied the attention of this body since its commencement, or that will before its close. All the wisdom of this Convention is needed to settle this matter rightly; and if not settled rightly, the evils resulting may be incalculable. We are well agreed on general principles. We all seem to entertain this noble sentiment, that the children of the State are in a certain sense the property of the State; that they should, in some degree at least, be educated by the State. But how shall this be done? Various plans are suggested; but none of them are unobjectionable; none seem to meet the views of but a small portion of the Convention. That offered by the chairman of the committee of education is in my opinion preferable to the rest, and for this I shall vote if nothing better is presented. I hope, however, that something less objectionable will be offered. I have not risen to express my own views, but to draw out the views of others, in whose opinions on this subject I should have much more confidence than in my own, and who have hitherto kept silent in this discussion.

The amendment was lost.

The question then recurring upon Mr. WALKER'S substitute,

Mr. CRARY said, we have been some time discussing this subject, and as yet have come to no conclusion. There is such diversity of opinion that it seems impossible to arrive at a result that will meet the views and feelings of all. A portion are unwilling to believe that there can be any patriotism in our future Legislatures. They are disposed to tie everything down, supposing all the wisdom of the State to be concentrated here. Not fully believ-

ing this proposition, I am willing that the details of this subject should be left to the Legislature. We can mark out the outlines, and leave the rest to legislation; for we cannot satisfactorily fill up the details of the system.

We have before us the proposition of the committee, and from their respectability, their number, and the zeal with which they sustain these propositions, those of us who differ with them can scarcely expect to obtain a majority of the Convention in opposition to what they have laid before us as the unanimous result of their deliberations. Yet I do not believe that they have given to the subject all the attention which it demands, or looked at all the consequences which will follow the adoption of their report.

The language is: "any deficiency that may exist after the distribution of the income from the primary school fund, shall be raised by a tax upon the whole property of the State." The tax shall be general throughout the State; the same in Oakland as in Barry; the same in Berrien as in Wayne. Now, sir, what will be the effect of this general legislation, without reference to the future action of the Legislature? Having apportioned the public money, amounting at present to 33 cents on the scholar, you have a deficiency in 3060 districts to be reported somewhere, that the same for a 3 months tuition, may be made up by general taxation. The deficiency must be raised by general taxation in the State. Such a provision will lead to one universal scramble, to see who shall get the largest share of the money. This scramble can only be prevented by allowing the Legislature to fix the maximum and the minimum of the wages of the teachers. If the Legislature must do this much, why not leave all the details to them? Why not say the Legislature shall provide a system of free schools, leaving to them the plan of taxation, and the mode of applying it?

The committee proposed a mongrel system; for that was not a free school where there was any charge for tuition—not a free school where the poor man might have his child frozen to death for the want of wood, or the teacher starved for the want of board. In a free school, fuel, board, and implements for school house, must be

provided; and these in some instances amount to half the expenses, especially in schools kept by females. New York has a four month's free school, and they covered the entire expenses, fuel, board, school books, and insurance for school house. What was the expense of that system? Fifty cents per scholar was received from the fund; then fifty cents tax per scholar from the county, and fifty cents more from the town. But that was not sufficient. A further tax was authorized to be levied upon the school district, and it was this last tax which seems to have ruined the system.

We propose to levy a State tax to make tuition for three months free. We propose to make it imperative; but if it be too expensive, or if it does not meet the wants and wishes of the people, you may insert it in the constitution, you may make it imperative, but it will be in vain. The people will overthrow the system if they do not like it, and there will be no remedy; it will be made a nullity, or the clause will be repealed. What we are attempting was tried by the State of Louisiana, and the system had to be changed. The State now gives annually \$450,000 in aid of a free school system, and leaves the rest of the money to be raised by the locality. Delaware made a similar attempt, and she has had to change her plan. New York is about abandoning the system she first adopted, for one more suited to her circumstances. Yet we propose to uproot our present system and adopt another that we know nothing about. We have a system that all admit to be a good system, although the gentleman from Macomb [Mr. WALKER] made a side attack at it. I do not say that it cannot be improved, but it works well. If the new system is adopted it may not suit the people; and if it does not, you will not be able easily to change it if you fix the details in the constitution.

I would suggest that the amount of a mill or two mill tax be distributed to each school in proportion to the number of the scholars or to their attendance, and then let the towns or school districts raise such amounts as they may deem proper. They will then have an inducement to use economy; they will then have no temptation to squander the money which, under the other system, they could. If we are

to have a free school system, we had better give such a direction in the constitution, and let the Legislature manage the rest. We shall then have a system which can be adapted to our circumstances.

The question then recurring upon Mr. WALKER's substitute, the committee refused to so amend.

Mr. MORRISON offered the following as a substitute for section 3:

"The Legislature shall provide by law that in the year 1855, and every year thereafter, a general tax shall be levied in the State for the support of primary schools, not exceeding five mills upon each dollar upon the valuation of the taxable property in the State. Such tax to be levied and collected in the same manner as the general State tax for State purposes, and appropriated for the support of primary schools throughout the State in the same manner as the primary school interest fund; and shall provide that during the time required to expend the amount thus apportioned among the several districts, a school shall be kept in each district, without any charge for tuition to all scholars residing in such district between the ages of four and twenty-one years; and the instruction in such schools shall be conducted in the English language."

Mr. M. said—The latter clause provides for all the difficulties in raising the funds and making it a free school—provides that the money so raised shall be expended, and during the time it is expended the school shall be free—that during that time no rate bill shall be charged. This will not prevent the inhabitants from employing the teacher a longer time, if they choose; and it will prevent no temptation to squander the money. I would move to strike out "charge for tuition."

The motion was lost.

On motion of Mr. H. BARTOW, "five mills" were stricken out, and "two mills" inserted.

Mr. MOORE moved to strike out "1855" and insert "1852;" but the committee refused to strike out.

On motion of Mr. W. ADAMS, "exceeding" was stricken out, and "not less" inserted.

Mr. MORRISON's substitute was then disagreed to.

Mr. N. PIERCE offered the following as a substitute for section three:

"The Legislature shall establish by law a system of primary schools, by which such schools shall be kept in each and every school district for at least three months in each year, free to all children between the ages of four and eighteen years, and shall provide for the levying a tax not exceeding two mills upon the dollar upon all the taxable property in the State, for the support of said schools; and the English language be taught in such schools."

Mr. CHURCH moved to amend the substitute by striking out the words "and the English language shall be taught in such schools," and inserting the words "and all instructions in the said schools shall be conducted in the English language;" which was agreed to.

On motion of Mr. ROBERTSON, the words "and without charge for tuition" were inserted after "free."

Mr. N. PIERCE's substitute, as amended, was then adopted.

Mr. ROBERTSON moved to strike out section four; but the committee refused to strike out.

Mr. CRARY moved to strike out the first, second and third lines of section five; which did not prevail.

Mr. BUSH moved to strike out section five; but the committee refused to strike out.

Mr. ROBERTSON moved to strike out of section six all after "University," in fifth line; which was disagreed to.

Mr. MASON moved to strike out section seven; but the committee refused to strike out.

On motion of Mr. CRARY, the words "according to the terms of the grant or appropriation" were added to section eight.

On motion of Mr. CRARY, the following, to stand as section nine, was adopted:

"Institutions for the benefit of those inhabitants who are deaf, dumb, blind or insane, shall always be fostered and supported, and the proceeds from the sale of all lands that have been or shall be hereafter granted or appropriated for the support of such institutions, shall be inviolably appropriated according to the terms and conditions of such grant or appropriation."

Mr. CRARY said that there was a grant of twenty-five sections of salt spring lands for that purpose, and the object is to set them apart for that purpose.

On motion of Mr. SOULE, the following was inserted in section 9, as printed, after the word "therewith," in line 3:

"And the 22 sections of salt spring lands now unappropriated, or the money arising from the sale of the same, where such lands have been already sold; and any land which may hereafter be granted or appropriated for such purpose, shall be set apart for the support and maintenance of such school and farm. And the proceeds of the sale of all such lands that have been or that may be hereafter sold, shall be a perpetual fund, the interest of which, together with the rents and profits of such lands, shall be appropriated for the support of such school and farm."

Mr. HANSCOM moved to strike out all after "township," in line 4 of section 9.

On motion of Mr. RAYNALE, "collected" was inserted after "assessed," in line five.

The words proposed to be stricken out containing two propositions, Mr. CRARY called for a division of the question, and the committee refused to strike out.

Mr. WOODMAN moved to strike out "of at least," in line 4 of section 9; which was disagreed to.

Mr. CRARY offered the following to stand as section 11:

"Until the existing State debt is paid, all specific State taxes are set apart and appropriated to the payment annually of the interest that may become due from the State to the school and other educational funds, or so much thereof as may be necessary for such purposes, and from and after the payment of said debts, such taxes shall be inviolably appropriated annually for the support of primary schools."

Mr. BUSH would ask what the gentleman intended by specific State taxes?

Mr. CRARY—Specific State taxes will be confined to rail roads, plank roads and the imposts upon banks, if we have a banking system. I want this set apart for the purpose of paying the interest of the primary school fund. We are largely indebted to the fund, and shall continue to be more so as the lands are more and more sold; and after the debt is paid, I propose that the

whole shall be set apart for the purposes of education.

Mr. BUSH—I am opposed to the amendment. It is legislating for a period too far into the future. We have a large fund to set apart, when available; and by the terms of the amendment, it shall be kept inviolate. The interest now set apart for the support of primary schools will eventually amount to millions—will be large enough to support the primary schools of the State. I think that this will trammel the Legislature, and that as we have no fear that the interest of the primary school fund will not be paid, we should not place impediments in their way.

Mr. CRARY—I don't think that it will be so large. It will not be more than forty-one cents upon the scholar. The children in the State will increase so rapidly that I consider that the largest amount that we can reasonably suppose. The interest has always been paid, but I think it right and proper to set apart a fund that shall be inviolate.

Mr. REDFIELD—I agree with my friend from Calhoun, that there should be a specific determination after the liquidation of the State debt, and I know of no direction where it could be as well employed as in the support of the school fund; and I think that the apprehension that the fund will be too large need not be indulged in for twenty years to come, as we shall probably take our own time to pay the State debt. When paid, the tax upon rail roads and banks should become the property of the people of the whole State, and the whole should have the benefit.

Mr. J. BARTOW—This amendment is useless, and out of place. The chairman of the committee on finance and taxation reported this morning, and the discussion would come properly up in this report. It is a question of much importance; it had better be passed over until the other reports come up, and then the whole matter will be before us.

Mr. N. PIERCE thought this was the proper place. The larger sum there was, the less difficulty would there be in having a free school. If it was as large as some gentlemen supposed, there would be no difficulty in establishing a free school system.

Mr. BUSH did not think the fund would

be too large; but objected to that species of legislation that provided for contingencies that would not happen for twenty years to come. Improvements are going on daily; the constitution will have to be revised again, and by that time the State debt might be paid; then we could place the specific taxes where we chose.

Mr. FRALICK—I think that the specific State tax should go into the treasury to help to pay the State debt. We borrowed money, built a rail road, sold that rail road; we now tax it, and until that debt is paid, the money we receive should be appropriated for that purpose.

Mr. CRARY—I was aware that there would be some objection to the application of this money for the cause of education. I propose to have the interest of the primary school fund paid from year to year, and secured by sources about which there can be no question. I want it so that the Executive department cannot expend it; that the Legislature cannot expend it; that it shall be understood and known that it belongs to the cause of education; that it cannot be used for any other purpose. If left in the treasury, the first difficulty in legislation would probably be to authorize the use of the money. From time to time there may be a Legislature that will do injury to the fund. The general legislation may be right; but one Legislature may do an injury that we cannot recover for a series of years. I propose to guard against the evils which one Legislature may do.

Mr. WHIPPLE—The proposition of the gentleman from Calhoun is an important one. I understand that the specific taxes are derived from rail roads, plank roads, banks, and any other moneyed corporation. I venture to predict that in a few years the fund from this service will be very large; perhaps in ten years it will amount to \$100,000.

The gentleman from Calhoun says that the State is largely indebted to the educational fund, and that he wants some better security than the faith of the State. I want no better security than the faith of the State, and I think that that being pledged, it is sufficiently ample for any security. But it must be recollected that in addition to being indebted to that fund, the State is indebted to private individuals to the amount of one and a half or two millions.

While we are taking care of ourselves, we should not lose sight of our foreign creditors. I should have no objection to place it upon this fund if our State debt was liquidated; but while that remains, I am unwilling so to do, as we shall by so doing add to the burdens of the people of the State. I think, moreover, that it is the duty of this Convention to make some provision for the payment of this debt. I think it should not be left to the fluctuations of public opinion, or of legislation.

We are a young community—we are not poor—we are in comparatively comfortable circumstances; but we are a rapidly growing community, and we ought on that account not to place upon our own shoulders too great a burden, but to leave a portion to those who will come after. I believe that the people of this State will not neglect to pay the interest of the primary school fund. But we must bear in mind that the principal of the State debt, as well as the interest, will in a short time have to be arranged. If we take our available means and divert them to other purposes, we may be the means of placing a burden upon this people, greater than they will be able to bear. We had better leave a portion to those who come after us; they will be more able to sustain it than we are.

After some debate, Mr. CRARY withdrew his proposition.

On motion of Mr. J. D. PIERCE, the committee rose, reported the article back with the amendments, asked the concurrence of the Convention therein, and to be discharged from the further consideration of said article.

The committee, through their chairman, reported the same back to the Convention with amendments, in which the concurrence of the Convention was asked. The committee was discharged from the further consideration of the same; and

On motion of Mr. WHIPPLE, the article was laid on the table and ordered printed.

On motion of Mr. BRITAIN, the Convention resolved itself into committee of the whole on the general order, Mr. CHURCH in the chair.

The committee having under consideration the article entitled "Corporations;" and section two having been read,

Mr. WOODMAN moved to fill the blank with "ten."

Mr. VAN VALKENBURGH with "two."

Mr. WITHERELL with "four."

The question being taken on the largest number first, Mr. WOODMAN's motion did not prevail.

Mr. WITHERELL's amendment prevailed, and the blank was filled with "four."

Mr. HANSCOM moved to strike from the section all after "elections" in the third line.

On motion of Mr. COOK, the committee rose, reported progress, and asked leave to sit again.

The committee, through their chairman, reported the same back to the Convention and asked leave to sit again. Leave was granted.

On motion of Mr. ROBERTSON, the Convention adjourned.

THURSDAY, (39th day,) July 25.

The Convention met pursuant to adjournment and was called to order by the PRESIDENT.

Prayer by the Rev. Mr. SANFORD.

PETITIONS.

By Mr. FRALICK: of Seth Hughes and fifty-five other citizens of Wayne county, praying that an article may be inserted in the constitution restraining the Legislature from passing any laws granting licenses for the sale of intoxicating drinks; and if deemed expedient, to make it the duty of the Legislature to pass laws making it a misdemeanor to vend intoxicating drinks as a beverage.

By Mr. SULLIVAN: three several petitions of citizens of the county of Cass, praying for a provision prohibiting the passage of any law authorizing the sale of intoxicating liquors as a beverage.

By the PRESIDENT: two petitions of ladies of the city of Detroit, for a like prohibition.

The above were severally referred to the select committee upon the subject.

By Mr. ALVARADO BROWN: of A. A. Amidon and one hundred and five others, citizens of Branch county, praying the insertion of a clause in the constitution prohibiting the employment of convicts in

the State Prison at those branches of mechanical labor which interfere with mechanical trades in this State. Referred to the committee on miscellaneous provisions.

MOTIONS AND RESOLUTIONS.

On motion of Mr. COMSTOCK, the minority report of the committee on banking and other incorporations, except municipal, was taken from the table and referred to the committee of the whole.

Mr. ALVORD submitted the following:

Resolved, That when the Convention adjourns at noon to-day, it stand adjourned until to-morrow, and that the Sergeant-at-arms be instructed to remove the carpet from the floor, and thoroughly cleanse the Hall.

Mr. CRARY moved to amend so as to adjourn at noon to-morrow over till Monday, but withdrew the motion.

The question was taken on the adoption of the resolution and decided in the negative.

On motion of Mr. J. BARTOW, the Convention resolved itself into committee of the whole on the general order, Mr. CHURCH in the chair.

The Article "Corporations," being under consideration, and the question being on striking out the last clause of section two: "When any such banking law shall have been passed, and been submitted to a vote of the electors of the State, and shall have been rejected by them, then no further banking law shall be passed for the next succeeding — years."

Mr. BARTOW was in favor of striking out the whole section. It was all wrong. The idea was wrong of submitting a long article in all its details, such as the incorporation of banks, to the people. We never can get an expression of public opinion on a long article, that will be valuable. If you submit to the people for their decision a single principle to be engrafted in the constitution, it may be proper; but to submit a long article and let them discuss its details and not the principle, would be wrong. You may as well say that every act of the Legislature shall be sanctioned by the people before it takes effect. They do not want it. They have not time, and will not devote proper attention to it.

Mr. COOK said the question before the committee was on the motion to strike out all after the word "election." That in-

volves only one consideration, if the section is retained. If the people should decide against the law for banking, either on account of its details, or the principle, the proposition is, whether they shall have the opportunity of reconsidering their decision. If so, their Representatives can go on and submit a principle to them again. We change our opinions with a change of circumstances. If they decide against having any banking institutions, the time may arrive when the people may wish to reconsider that decision, and may wish to establish banks on what they consider safe and sound principles. That is the proposition of the gentleman from Oakland, on which we have to decide.

Mr. HASCALL said it seemed to him that there were some essential reasons why it should not be struck out. The sessions of the Legislature are limited to forty days, and the members will not have time to be bored by the lobbies. The object is this: that if a general banking law be passed and the people reject it, no other shall be passed within a specified time. If you strike out this clause, the Legislature may be bored by lobbies every session, till they get up another banking law. If they decide on the principle, it should be fixed that no other banking law shall be passed for a number of years, because it would interfere with the business of the State.

Mr. CORNELL was of opinion that the whole section was unnecessary. The gentleman from Genesee had well remarked that the people would not enter into details. If honorable, honest and candid men are sent to the Legislature, they will be impervious to the solicitations which the gentleman from Kalamazoo has represented.

Mr. SULLIVAN said—Under the clause proposed to be struck out, when a question had been submitted to the people and rejected by them, it could not be submitted to them again for a series of years; but a banking law might be rejected on account of a single provision, or for some deficiency in respect to security. If rejected on such considerations it would prevent another law being proposed. That would be wrong. There seems no reason for refusing to submit to the consideration of the people another banking law of a different character. It is not to be supposed that a

precisely similar law would be submitted to them. It appeared to him that it ought to be struck out.

Mr. REDFIELD said the idea suggested by his colleague [Mr. SULLIVAN] was not applicable to the case. We have banking laws. Our banks are intended to be created under the same laws and rules. This restriction will apply to all cases.

Mr. HANSCOM said he did not rise to discuss the question under consideration, but to call attention to the principle sought to be fastened upon the people of this State by the proposed system of banking, as shadowed forth in this article. He was conscious that much diversity of opinion existed among the members of this Convention, and among the people, upon this subject; and before we proceeded to settle upon the details of a system of banking to be incorporated into the constitution, it would be well to settle the preliminary question and determine whether we will authorize, under any circumstances, the creation of such institutions in this State. On examination, he thought it would be found that several of the sections in the article might with propriety be stricken out. With the exception of five out of the eleven as reported, he saw no use in their retention. What is here proposed? That we will permit a system of banking, and base all the issues of notes and bills under that system upon stocks of the United States or our own State. Gentlemen tell us that this will render the system absolutely safe and secure. Then why clog and encumber a plan so specious with useless provisions and details? Upon the assumption of the friends of banks, these cumbrous provisions will only prevent the introduction of capital into our State from abroad. Some gentlemen propose to submit the system, as a whole, to the people in a separate article; others wish to submit each charter, with all its provisions and details, to the people. Are gentlemen certain that such a plan will render all safe?—that even that guard may not at times be found entirely ineffectual? If we are to adopt any system, most assuredly we should make it as perfect as possible with guards, if human ingenuity can devise guards, that will protect the bill holder. But as yet the wit of man has never been found equal to the accomplishment of such results. I would

not absolutely condemn all systems of banking, merely because we have had a bad system; but when all experience demonstrates that all systems are bad ones, we should proceed at least with great caution. I shall, for the purpose of testing the sense of the Convention on the main question, offer a substitute for the section under consideration. Should the Convention concur with me in preventing for all coming time the creation of any banks in the State, we shall be saved the labor of preparing any plan at all.

Mr. COMSTOCK was in favor of striking out the clause for the reasons assigned, and for other reasons. He saw no reason why a law of that kind should be submitted to the people more than any other fundamental law. There was one evil which would attend it. At every election it would produce great excitement. If it were necessary to have banks—and on looking round on the circumstances of the country, and the business and commercial pursuits of the people of the State, he thought the necessity would be apparent, or those who have banks will monopolize—if their circulation were secured, he saw no necessity for those clogs upon their operations.

Look (said Mr. C.) at the securities required. If our government stocks are pledged for the redemption of their notes, the bill holder is safe. As for others who have transactions with banks, leave them to manage their transactions as other individuals, but the bill holder should be secured.

Mr. MOORE said—Mr. Chairman, I think members will see the necessity of opening out this question before they vote upon it. It is as broad as the land in which we live, and it should be considered in unity, and discussed fully in all its provisions. The question of bank or no bank, sent to the people to vote upon, without the plan or system proposed, would meet with no favor, and of course would be rejected by them. I am sorry this section has been stricken out. It contained the system proposed, the plan to be adopted; and this is the only light in which the question should be proposed to the people. I have no objection to a healthy system of banking—to sound banks—and I believe they can be created under general laws,

and the system should be incorporated in the constitution, and not left to the Legislature.

If we could reduce our circulation to specie, we should not want banks; but this is impossible. We shall have the bills of other States circulating among us, if we have not our bills; and we might as well have our own as to have those of others. If they are safe, ours can be made so.

Let the system, as in the section stricken out, go before the people; let them pass upon it, and then we shall come to the conclusion whether this system is safe or dangerous. I hope, therefore, Mr. Chairman, this question may be restored to form and passed upon, and settled in a sensible manner, as it should be.

Mr. J. D. PIERCE hoped it would not be struck out. He recollected the system of wild cat banks, with their issues based on broken glass, nails and swamps. This is a system adopted to rob labor of its reward, by enabling persons to bank on a debt and nothing but a debt. Basis it has none. What better is it than the basis of our wild cat banking? It enables certain persons to withdraw from the productive interests of the country ten, twenty or thirty per cent. A person may go and purchase State stocks and deposit with the Treasurer, then take the notes and purchase more stock. It is a machine by which labor is robbed of its reward. This system of banking is debt and nothing but debt.

Mr. WHITE considered this a mere matter of expediency; but it appeared to him if the principle involved in the section were carried out it would be an innovation. We might with as much propriety say the acts of the Legislature shall have no force till sanctioned by the votes of the people. He saw no particular reason why this should be acted upon here—why this particular case should be made an exception. If those corporations are necessary for commercial or other purposes, leave that power with the Legislature, that power which will exercise the functions of sovereignty.

It strikes me (said Mr. W.) that it would be an innovation on our republican institutions; it is an assertion that we have no confidence in the Legislature, and can place no reliance on those elected by the

great body of the people. It seems to me the clause, if retained in the section, would be an imputation on the integrity of the Legislature.

Mr. DANFORTH hoped it would be struck out. If any one principle should be submitted to the people, it was this one on banking. It was the only thing about which he was ever embarrassed in the Legislature; his constituents considered his vote on questions of banking more than any other.

He [Mr. D.] saw no reason why the Convention should mistrust the people. It was a question the people wished to have settled. He trusted that members would be willing to let it go back to the people, and forever settle the question. It is well known to every person who has been in the Legislature that the influence of the banks over the Legislature is irresistible. He would ask his friend from Oakland [Mr. HANSCOM] how those influences are brought to bear?

The people should have a direct vote upon it; they understand the question. They are ripe for it; they perfectly well understand the State stock system. What would be the effect of that policy but to keep the State in debt? He hoped the State debt would be extinguished in five years. Our indebtedness deters emigrants from settling among us; persons are afraid to come into the State. Remove that, and you will increase the prosperity of the State.

Mr. HANSCOM withdrew his motion made yesterday to strike out all after "election," in third line of section 2, and offered the following as a substitute for section 2:

"No banking law or law for banking purposes, nor any act creating any association or corporation for banking purposes, shall ever be enacted by the Legislature."

Mr. J. BARTOW asked a division, and the question being taken on striking out, the same prevailed.

Mr. GOODWIN moved to amend Mr. HANSCOM's substitute, by striking out all after "no," and inserting the following: "bank shall be established under any banking law or law for banking purposes, unless the question whether the same may be established shall have been first submitted to and decided by the electors of the State, under the provisions of law."

Mr. GOODWIN said he would take this opportunity of making some remarks on the subject. The first section in the article provides that corporations, except municipal, may be established under general laws, and general laws only; so that under that provision it will be competent for the Legislature to establish banks by a general law. In consequence of the experience we have had as to banking in this State, and the feeling on the subject, I deem it proper that such a provision as that contained in my amendment should be inserted in the constitution.

In reference (said Mr. G.) to what has been stricken out, the provision that no new law should be again submitted to the people, if they rejected the first proposed, I think would be an objectionable feature. So in the other case; if a banking law were passed, and found defective, it would prevent them from altering it. Now, sir, the first section provides for a general banking law; subsequently, under this section, as amended in the manner I propose to amend it, whenever it is sought to establish a bank, the question, instead of being decided by the Legislature absolutely, would be necessarily presented to the people, whether that bank should be established or not; leaving it, if established, to be governed by the general law to be made on that subject.

I need not turn to the period of '33 and '39, when the people were scourged by the system of banking then established—the so called wild cat system, under which such immense frauds were committed. I need not call to mind the other system—chartered banks that were but little better in their effects on the public interests, and the losses which the people sustained under them. I need scarcely remark that in regard to this subject public opinion and public feeling are strong; and in that opinion and feeling I confess I participate. While a banking law is provided, I believe, to establish a bank under it, the question should be submitted to the people. They have been scourged by banks—they are the sovereign power—they wish to hold control over this subject, and I go with them. If a bank is necessary to be established, if it be more for benefit than injury to the community, the people will establish it. My proposition is susceptible of amend-

ment; as to its form I am not tenacious; I wish only to carry out the object.

Mr. COOK—The proposition of the gentleman from Wayne [Mr. Goodwin] suits me. I am not particular about forms, if we only obtain the substance. The question is, whether the law in relation to banks, or the banking law itself, shall be submitted to the people. The committee have no particular anxiety about the mode of accomplishing it, if the object only be attained.

The committee were under the full conviction that no authority should be given to the Legislature to establish banks, without obtaining the sanction of the people in regard to the law. They were in favor of submitting this question to the people in some shape or way, because the Legislatures have heretofore gone on creating banks and banking laws, and every universal thing.

The people have lost more by banks than would pay the public debt. But the gentleman from Oakland [Mr. Hanscom] says we are going to establish a safe system; State stocks are going to be the panacea for all the public evils. How does he know that? Have not the friends of banks always said so under all their systems—that the people were protected? How can we tell what will be the state of things two years hence? Suppose the country should be convulsed, as in '37 and '38—where should we be then? Who would buy our State stocks? They would not, perhaps, sell for fifty cents on the dollar. Sir, there is no absolute actual safety in those institutions of banking which may be got up in this State or any other. Legislatures are not beyond the influences of those who want those institutions. Sir, the history of this State and of others demonstrates the fact. You never knew a Legislature to come together but they would decide against banks by a three-fourths vote, and before the close they would charter banks by a two-thirds vote. I think no gentleman will say but when the Legislature assembles here directly from the people, it expresses the views of the people.

Sir, the member from Oakland [Mr. Hanscom] staves off this question by saying this submitting the question to the people is all a humbug. But, sir, other

States have fallen into this humbug. Illinois has a similar provision, that when a law is passed it shall be submitted to the people. Wisconsin has a provision similar to the one proposed by the gentleman from Wayne, [Mr. Goodwin,] that bank or no bank shall be submitted to the people; if they vote aye, the Legislature may go on and charter banks; and then each charter is submitted to the people; yet the gentleman from Oakland says it is all a humbug. They did not think so there.

Sir, I am opposed to the adoption of the substitute offered by the gentleman from Oakland, for the reason that it is an acknowledged truth that there is a great difference of opinion among the people. If submitted as a separate question, I shall vote no banks; but it is well known that putting a provision of this kind in the constitution would surely hazard the adoption of the constitution by the people. There is a large number of persons in the community in favor of banks; they have not lost enough by banks to come out in opposition to them; they still think those institutions necessary to carry on the business of the country. Well, sir, when the people come to that conclusion, I shall be willing that they shall have banks. To ascertain that fact they should have the right to vote on the question.

Mr. J. D. PIERCE—It seems surprising that any gentleman should object to submitting a question of this kind to the people, especially when we look back to the history of the last fifteen years—a history of fraud. It is said we must have banks. I have no objection, if a man has money, that he should lend it, if he chooses; but I contend that the banking system is a system of fraud, and we know the people have suffered from it severely. I would not put in a clause absolutely prohibiting banking; but I would leave it so that the people may control it. The State stock system will perpetuate our indebtedness, that they may bank upon that indebtedness. The business part of the community will be interested in perpetuating that indebtedness, as the moneyed men of Great Britain are in perpetuating their indebtedness, that they may live out of it.

(Mr. P. referred to instances in which the Legislature had refused to pass bank charters, but which had been lobbied through at

the close of the session.) This would not have been the case had the people had a direct vote upon it.

Mr. WALKER had no objection to submit to the people the question of banks or no banks. That might with safety be submitted to the people; but he should not consider it safe to submit to the people any matter of detail or of a local nature. They could not act understandingly upon it. The proposition of the gentleman from Wayne [Mr. GOODWIN] was, that no bank should go into operation under the general banking law till its charter had been sanctioned by the people. To such a proposition there appeared to him [Mr. W.] to be strong objection. Suppose the people at Constantine wanted a bank, which they might consider necessary to facilitate their business and mercantile transactions, it must be submitted to the people at some general election, whether a bank shall be established at Constantine. Now, what would the mass of voters in the northern parts of the State, the islands of the lakes or the mineral regions know or care about it? They could not act so intelligibly upon it as their delegates in the Legislature. The gentleman from Calhoun [Mr. J. D. PIERCE] says that the Legislature may act correctly; that when they meet they are pure; but on the subject of banks they are tampered with, and at the end of the session they carry out every proposition in favor of banks.

Now, sir, the proposition is not a bad one—to leave banking open, provided you establish a system under which the bill holder shall be protected from loss; such a system as is established in New York and other States. They do not depend on the honor or honesty of bankers; they require security for the bill holders, and it is the interest of the bill holders that we should protect them. The State authorizes the issue of those notes as money, and the State should see them paid. By requiring a deposit of stocks equal in value to the notes issued, and by giving the bill holder a preference in case of failure, it is easy to make him safe.

If we are to have no banks, depreciated bills from Ohio, Wisconsin and Canada will fill up the circulation of the State, and we shall use them instead of our own, that we could make secure. There cannot be

that interchange of opinion on local matters and matters of detail, as among the members of the Legislature.

I have confidence in the Legislature; in their honor and integrity. I believe they are disposed to legislate for the benefit of the people, and I do not believe they can be so easily turned away from the path of duty. We are not authorized to say that the Legislature will not always act and shadow forth the views and opinions of the people. I would leave something to them: I would not trammel them when it might operate to the injury of the State.

Mr. BRITAIN said—Mr. Chairman, there are two or three things which I think the Convention ought to accomplish. One of them is the removal of all expense and difficulty in regard to the legislation on the subject of banks. That should be settled forever, so that our Legislature may go about the business for which they were sent. This, I suppose, some members will think worthy of consideration. More evils are to be anticipated from that source than from any other that can be pointed out. It has heretofore been the case that after our Legislature had been in session a few weeks, and applications from banks were made, the Legislature was not fit to legislate for the business of the country; they had to go with the influence of the banks, against our own interests. That is a fact, and it should not be overlooked; and to that cause may be attributed the time spent by our Legislatures. You are about to limit our sessions—the first to 60 days, and after that to biennial sessions of 40 days each. How much time will be occupied on these bank petitions, backed up by the people of a county? They will be backed up, because people will go for their own interests in opposition to the interests of the country. The business men of my county will sign a petition for a bank, who at the same time cry out against banks. How much will business be expedited, and with how much justice to other interests, if this legislation for banks be cut off? The gentleman from Macomb [Mr. WALKER] says you ought to calculate on having men of integrity in the Legislature; but on what ground does he base his calculation? Does the history of past legislation justify it? Such speculations have generally resulted in disappointment. The members

of a Legislature are always more or less under external influences. A man *may* be influenced. The men sent to the Legislature are liable to be influenced like other men. Sir, this should not form any part of the system to be sanctioned by this Convention.

Mr. Chairman, I would say a word or two relative to the general banking law. I see that the prejudices against that law, which arose from the failure of numerous banks under it, still remain strong against that banking law itself. I am not in favor of banks; but if we have any, I would have them under a general banking law, and relieve the State from the vast amount of expense every year in legislating for banks, and from those influences for and against banks, which under our present system always surround the Legislature, and disqualify them for legislation upon any subject.

Now, sir, what reformation was ever established without meeting reverses in the beginning? Even in the establishment of a Republican form of government, how often failures occurred, which gave triumph to its enemies. We might as well say that we ought to oppose our free system of government, as to say we will oppose a free system of banking on account of the ill success attending the first effort under our defective general banking law, when we have the evidence of our senses that a neighboring State, by correcting a few of its errors, has obtained for it the preference over any other banking system. It is the pride of the State of New York, and is being copied by other States. Notwithstanding its success in the State of New York and elsewhere, it is designated here as a degrading, odious law.

To whom is the world indebted for the general banking law—the State of New York? No, sir, not at all; no more than they are to Mr. Bain for the electric telegraph. Who ever heard of a piece of machinery being invented that was not, immediately after its invention, improved?—Fulton, for instance, in his application of the power of steam to navigation. So much for the evils of the Michigan general banking law. It was got up during a time of general inflation, when land was considered more valuable than money. It was got up not with the intention of in-

creasing banks, but to prevent their increase. Bank charters were being granted every year by the Legislature, and sold in Wall Street by persons getting them, at from \$10,000 to \$20,000.

If persons (as for instance the projectors of the Michigan State Bank did) could get themselves named in a bank charter so as to control it, they could sell one-half of the charter for \$10,000, hold one-half of the stock, and pay the first installments with the \$10,000 received, as history says they did. Does it not offer a reward of \$10,000, and the privilege of being a banker besides, for getting up petitions and overwhelming the Legislature with such applications. It was not only the case with that bank; it was the same with others. I know of no other charter but what sold for enough to allow the first proprietors to pay up their shares and hold half the stock.

The numerous petitions with which the Legislature of 1837 were flooded, amounted to an instruction by their constituents to go for bank charters. Under these circumstances it was evident that the time of the Legislature would be occupied in creating banks, I may say, with instructions from the whole people. The Legislature knew there was no money in the State to take up the stock. There were more banks chartered than could live in the State, yet they were instructed to go for more; nor was the two-third rule of any avail. The friends of twenty charters combined, could carry each of the twenty through with unerring certainty, as in the case of the famous Kimble and Bishop combination in the State of New York, for the creation of twenty-seven banks, which was discovered and broken up by the arch enemy of banks, Mr. Young, after seventeen of them had actually been chartered and fastened upon the people.

The Legislature of Michigan saw no remedy for this evil but in the passage of a general banking law, under which men having capital might go into banking without paying a premium for the privilege. The world will judge some day whether there was propriety in such a measure or not. The projectors of this bank law were anxious to try the experiment cautiously, and required a capital of \$100,000 to start a bank; but the enemies of the

measure united with its more indiscreet friends, and so the law that \$10,000 could start a bank. Persons engaged in banking, and stock jobbers, knew that stock jobbing would be at an end, and that they would not have a monopoly of stock jobbing speculations. They came in and patronized the system—they became friends of the measure. I have before me the faces of those men, and I shall never forget them. I recollect them from every county. One gentleman said: "I should wish to have a system that will give to every city and village a bank, and even two if they want them." This was against the wishes of those who wanted to check the creation of banks under the operation of the general banking law; but the law was so modified by those persons as to carry with it the elements of its own destruction; and the subsequent results of that law were but the fulfilment of the predictions made by some of the friends of the original measure at the time of the passage of this modified proposition.

A word or two relative to the administration under this banking law: for objectionable as the law was, it was nevertheless as safe as any other banking law or charter at the time, and the losses under it occurred from bad faith in the administration of banks under it.

The law required as much specie to be paid in, in proportion to the circulation, as any bank charter in the State at the time; and all other securities that were in addition to those required of other banks. It was the small amount necessary to start a bank, which enabled a few individuals to borrow the amount necessary to start a bank, and then borrow it back and return it to the original owner. I would ask how those banks were started? Who started them? Who furnished the capital for those banks? In most cases the capital could be traced from the chartered banks into the hands of the principal subscribers to the stock, and from those holding largely in chartered banks. What was the object of this? I was importuned to go into the speculation. Sir, the secret was let out. You can create banks, throw out a circulation, pay it out for property. Some will pay in for their shares in good faith; they will mortgage their farms for security. You may draw out the entire strength of the

bank—you can avail yourself of all this in buying property, and permitting the bank to go down, when you may then redeem your paper at twenty-five cents on the dollar. Under this the people will suffer—the system will become odious—it will stink in the nostrils of the people, and they will reject it altogether; and then we shall have our old system of banking again. If members are not disposed to believe it, let them look at what took place. Was it not in accordance with such a proposition?

It may be answered that the gentleman had something to do with those banks. Sir, I did hold stock in the bank of Brest. I paid in \$10,000 stock in good faith, which I lost and \$8,500 more. It was found when the bank failed that one stock holder had drawn out \$7,000 more than all the stock holders had paid in. I suffered as much from banks as most other persons, but am not aware that I have ever been benefitted by them. But I do not go with the prejudices against the system. Sir, the State of New York has profited by the system of Michigan.

I may be permitted to examine in detail some of the propositions. I should regret to see section 2 struck from the bill; because if any banks are to be created hereafter in Michigan, I want them to be created under a law submitted to and sanctioned by the people. I want to have the whole law submitted to the people, and I want all the banks in the State to be regulated by the same law. I believe the people are competent to judge on this subject. I do not wish a single bank to be submitted to the people, but under the general law approved by the people. I would have them created by the stockholders, without going with each bank to the people. If this be done, it will be a fair trial of strength between those in favor of banks and those opposed to banks. I do not wish to fasten upon the people even the banks now in existence; but if they want banks I am willing they should have them. If gentlemen wish to submit the single question of bank or no bank, I have no objection; but I want it submitted to the people on some general principle. I do not want to have one-half of the State vote themselves all the banks in the State,

by voting with some of the Wayne delegation against all other banks.

I differ with the gentleman from Wayne. What is his proposition? It is to submit the question of a bank being established at a particular place by the people—suppose at Coldwater. I presume he is honest, and means what he says; but he would be deceived by his project. He has made it, I am confident, without consideration. Let us look at its effect. You ask for a bank at Detroit. What influences will you bring to bear for the purpose of leading the people to suppose that a bank is needed? that it would be good for the millers and business men of the country. Sir, some of us know how it operates. Many persons on this floor know how necessary facilities are for some quarters. Now, a bank is about to be created in Detroit. How many persons will get assurances in the city that they will get facilities for carrying on their mills, and thus enhance the value of the agricultural products of the country; and how many of these are wanting the advantages of others to buy the products of the people? It will thus be seen what influences will be brought to bear to make the farmers believe that such a bank is necessary. They will be led to believe that they will get ten per cent. more for their products, and they will go in for a bank in Wayne county.

But, sir, look at the other side of the picture. Suppose they want a bank at Kalamazoo, and they have voted for the bank at Detroit, expecting a return of the compliment. Will they receive the support of Wayne county, or any of the adjoining counties? Sir, they will not receive it. Experience shows the contrary; and the course of the Wayne delegation in this Convention on this subject, as well as those of the adjoining counties, should convince every western and northern member that there will be no good faith towards the west or north upon this subject; and that the road companies, the bankers, the tavern keepers, and in fact, all classes of eastern interests will combine, for the purpose of holding the west and the north in a kind of commercial bondage to the east, by withholding from them their share of those facilities which have already been so liberally extended to the east by "irrevocable contract," as the gentleman from

Wayne calls it; and that these eastern banks will carry with them, in this opposition to the west and north, every western and northern man who shall be dependent upon them for commercial facilities.

Mr. Chairman, there are two important questions connected with this subject which should be decided wisely and justly by this Convention. Should the banking facilities of the whole State all be located in one part of the State? Should the millers and produce dealers of Niles, Kalamazoo, Grand Rapids, and other important western towns, be dependent upon Detroit for their common commercial facilities? Sir, the great expense and inconvenience of procuring them at so great a distance; the certainty of their claims being considered second to those of commercial men in the more immediate vicinity of banks, and the frequent disappointment resulting from this cause, and the great influence which Detroit could exert over commercial prices throughout the whole State, to the manifest prejudice of the western producer, ought to be sufficient to decide both of these questions in the negative, and render it unnecessary to adduce further arguments to prove either their impolicy or the injustice which must result to the north and the west by the adoption of such measures by this Convention. Sir, I am unwilling to believe that the Convention will sanction measures so unequal in their operations, and so unjust to the producing and commercial interests of a large portion of the State, and I will not trespass longer upon the time of the Convention to prove their impolicy. But I beg leave to ask this Convention how these evils are to be averted or avoided? Yes, sir, that is the question, and I put it to every member of this Convention. How are these evils to be avoided? Sir, there are but two ways in which they can be avoided.

1st. Prohibit the creation of banks, and repeal all of the bank charters in the State, and permit capital to go, unawed by banks, wherever the commercial interests of the country requires it. Shall I be told that this would be unjust to the banks? Sir, were we sent here to advance the interests of one class of the people at the expense of the balance of them? Were we sent here to advance or even to protect the interests of the banks, to the prejudice of the inter-

ests of a large portion of our constituency? And is it possible that these bankers who deal in the most available capital known to man, are so helpless that they cannot submit to those changes in your laws which public interest from time to time demands, with as little prejudice to themselves as the merchant, the farmer or the mechanic, whose capital is mostly invested in unavailable property? Are the dollars and the eagles in which those bankers deal made less valuable by a change in, or even the loss of a charter, when the public interest requires it? Well, sir, if these bankers do not suffer a depreciation of their dollars and cents, in consequence of the modification or even a repeal of their charters, in what way do they suffer? If their dollars and cents are ready, in full value, to be used in some other business, and can be as easily and safely transferred from one business to another, as the more cumbrous and unavailable property of other portions of the people, in what way can they suffer, unless it be in the modification or loss of their banking privileges. Well, sir, suppose they have lost their banking privileges, have they lost anything for which they ever paid a valuable consideration? Were they not entrusted with this privilege for the time being by the Legislative agents of the people for the avowed purpose of promoting the public interest, and could any other power on earth have entrusted them with it?

Now, sir, if the privilege of banking for the people is a right inherent in the people, and can only be conferred by the representatives of the people, is it not like other inherent rights, and only to be conveyed for the same purposes? And now, sir, for what purposes have the Representatives of the people a right to confer the rights, powers and privileges inherent in them? Have they a right to confer them except for the benefit of the people? Have they a right to confer them for the abuse and injury of the people? What a monstrous proposition! And what if the people's agents should either corruptly or unwisely, and in violation of representative duty, confer some of those inherent powers, to the manifest detriment of the public interests—have the people no power to appoint other agencies for the purpose of relieving them from the evils thus improperly inflicted upon

them? What an exalted idea of State sovereignty! and what an enviable position for a sovereign State! But gentlemen say that the State had delegated her sovereignty, and that an inviolable contract was made with that delegated authority for the use of the power conferred.

Mr. President: the general proposition already established, that these powers can only be delegated for the purpose of advancing the public interest, should be a satisfactory answer to this objection, because it would leave the sovereignty at liberty to declare the contract void whenever it could be made to appear that it was against public interest; and such a contract as delegated power had no right to make. But, sir, a fear that this is not satisfactory induces me to examine for a few moments the doctrine of "inviolable contracts," and "vested rights;" and the Convention will pardon me for using a simple illustration as that is, as I have frequently found, the only way to arrive at infallible conclusions.

1st. Suppose sir, that the Legislature of 1846 had stipulated in the charter of the Central rail road that no other rail road should ever be constructed in the State.

2d. Suppose that the Legislature of 1848 had stipulated in the charter of the Farmers' and Mechanics' bank, that the charter should be perpetual, and that no other bank should ever be permitted in Michigan.

3d. Suppose the Legislature had stipulated in the charter of the Lansing and Detroit Plank Road Company the perpetuity of their charter, and that no other plank road should ever be constructed in Michigan.

4th. Suppose the Legislature which chartered the Albion Seminary had, for the purpose of making the stock more valuable, stipulated in their charter that no other literary institution should be authorized in Michigan.

Will any one doubt the validity of so much of their charters as shall be found promotive of public interests? Sir, I think not. Now, sir, will even the advocates of inviolable contracts and vested rights dare to maintain the unchangeable validity of those provisions which prohibit the creation of similar institutions in the State? Will they deny the right of the State to nullify those provisions, whenever public

interest shall require the creation of similar institutions? Sir, they dare not do it; and why not? Should the Legislature incorporate another bank, could not this monopoly bank claim a contract with the Legislature of 1848 for the exclusive privilege of banking in Michigan—that the State had delegated her sovereignty to the Legislature—that the Legislature had delegated to them all the right of the State over the business of banking—that neither the State had remaining any power over the business of banking, nor the Legislature even; and that both were precluded from the further exercise of the power—and that, of course, any charter granted by the Legislature would be void, and leave the chartered company liable to all the penalties of making and circulating bank notes as money without authority. Should not your judicial tribunals, in their holy zeal to sustain the inviolability of contracts, and preserve judicial consistency, even though it be at the expense of every principle and of every interest, come to the rescue and sustain these several monopolies, so destructive, if sustained, to the future growth and prosperity of the State? Now, sir, I do not believe that this Convention is prepared to sustain the pretensions of these monopolies just described; and why not? Because, in the exercise of their common sense, they at once discover that if early Legislatures were to have granted monopolies similar to those described, a recognition of them by the present generation would be blighting to every interest of the State.

Well, sir, if these increasing pretensions may be nullified by the Legislature, because they are against public interest, may not all other claims be modified by the Legislature when they are found to be against public interest? And may we not discard that doctrine, so inconsistent with State sovereignty, which would enable a Legislature to sell the State to a corporation in which they were to become stockholders, and under the doctrine of vested rights and inviolability of contracts, hold the purchase forever? And may we not also express our astonishment at the success with which the stockholders of the various corporations have wheedled the world into an idea of the sanctity of their privileges,

while every other interest is compelled to conform to the requirements of public interests.

Sir, if I am not in error, all the banks in Michigan, except one, are subject to legislation by the provisions of their charters; and if public interest really require it, I should think it singular indeed if some way could not be devised to remove all banks from Michigan, and permit private capital to pursue its enterprises unmolested and unawed by banks. But, sir, I said long ago that there were but two ways in which the evils of which I have been speaking could be avoided; the first of which was to dispense with all banks; and the second of which is to permit banks to be formed, under proper restrictions, when business invited their formation. Now, sir, I do not propose to discuss this point, as it must, I think, be a self-evident proposition, and sufficient has been said upon it already; but I propose to examine briefly an objection made against the practicability of the proposition. It is this, sir. Detroit is made the commercial metropolis of the State—that exchanges will be steadily and unavoidably in favor of Detroit, and that banks cannot live out of Detroit.

Sir, this objection is altogether unfounded. Michigan is an exporting State, and her exports furnish the eastern exchange for the whole State, not excepting Detroit herself. Now, sir, it would certainly be more for the interest of any place having produce to export, to transact its business with the eastern markets, and receive eastern funds or drafts, than to receive the below par paper of Detroit for their produce, and permit Detroit banks to realize eastern funds themselves. If gentlemen investigate the matter a little, they will find that the present banks of Michigan cash but little paper, except that which is payable in some part of New York, or in drafts on some part of New York, drawn upon produce, either shipped already, or to be shipped to meet such drafts. Hence, it must be obvious that a bank located in any part of the State, and furnishing facilities for purchasing the produce of its vicinity, has the same means for supplying itself with eastern exchange, and for maintaining the value of its issues, as banks in the city of Detroit, and that in fact no substantial objection can be made against permit-

ting the establishment of banks in any part of the State where business requires them, provided they be permitted in the State at all.

Now, sir, how can one or the other of these desirable ends be accomplished? Sir, it can only be accomplished in one way, and in one way only. Your general banking law must be so formed as to repeal all banks, if it be rejected, and authorize free banks, under proper restrictions if accepted. This, sir, would make up a true issue between the friends and opponents of banks. It would strip off the mask from those demagogues who are hired by the present banks to democracy and opposition to the whole creation of banks. If a majority of the people should be in favor of banks, they would have them wherever public interest required them. But if a majority of the whole people should be opposed to banks, they would have no banks in the State, and private capital could safely go wherever public interest required it.

Mr. HANSCOM—I regret that my proposed substitute finds so little favor, judging from those who have as yet addressed the committee on the subject. It proposes, sir, the entire inhibition of the creation of banks by the Legislature. I am most decidedly in favor of it. While, sir, I cannot pretend to the experience in the business of banking which my friend from Berrien [Mr. BRITAIN] has had, yet, sir, I do know that the history of banking, from earliest times to the present day, throughout the world, exhibits nothing but a continuous scene of rascality, plunder and fraud—the toiling millions swindled and robbed to swell the coffers of moneyed aristocrats and mushroom aristocrats. Point me, sir, to any system of banking that has ever yet been devised, that has not directly or indirectly produced such results and led to precisely such consequences, and I will yield the whole principle.

But, sir, gentlemen tell us that the high exigencies of business and commerce absolutely require the creation and continuance of this species of institutions, and that these great purposes must be subserved, even at the expense of the evil consequences attendant upon the system. I do not propose to be thoroughly or even properly skilled in the business of commerce to judge with much accuracy as to

the exigencies that really do exist for the continuance of banking; but, sir, with what light I have upon the subject, I am called upon to decide; and I do not believe but that the evils attendant upon the system far counterbalance any benefits ever yet derived, or that can be derived from its continuance.

The recent influx of the precious metals—the discovery and working the inexhaustable mines of gold in California—the rapidity with which this gold is being coined at the various mints of the country, furnishes, in my judgment, a full answer to many of the arguments adduced by the friends of banking. I need not go over the ground and advert to the thousand arguments *pro* and *con*, as applied to this subject. The experience of our own State has, or at least should have, taught us some salutary lessons. But gentlemen tell us this system of government stock securities is the great panacea for all the dangers that have hitherto been found incident to this system. The philosopher's stone has at last been discovered. But, sir, is not this proposed plan liable to most serious objections? I will advert to some that I regard as obvious, before I close.

The gentleman from Berrien [Mr. BRITAIN] assumes that the system adopted in New York is a perfect one;—

Mr. BRITAIN—No.

Mr. HANSCOM—Well, “nearly perfect” were perhaps the words. I think, sir, the New York system one of the most dangerous and worst, and destined in the end to be productive of more mischievous consequences than any other that has ever existed in this country. Revolutions in the business and commercial world will ever occur at intervals; and any one who has studied the history of any commercial country that ever existed, must well know that these revulsions are as certain to occur as the seasons are to change; and when they do occur they set at naught all the calculations of prudence, and break down all the safeguards designed to protect and guard the interests of society. In this country those revulsions have occurred, with greater or less intensity, at intervals varying from fifteen to twenty years; and I most confidently predict that ere the lapse of a quarter of a century the present system of banking in New York is destined

to complete and final overthrow, bankrupting the State and beggaring the people.

Talk of a safe system of banking! There is no safe system; and I for one am unwilling to concede as a fact, by a provision in our fundamental law, what the experience of ages has demonstrated to be false. But, sir, let us look at the proposed guards that it is assumed puts the matter beyond the reach of danger. Submit the question, say gentlemen, to the people, whether there shall be a bank in this county, township or village. Yes, the Legislature at some session pass an indefinite number of charters for banks—they go in a batch to the electors—they pass upon the question. Aside from the entire impracticability of the thing, I do not regard it as any guard at all. Suppose the recurrence of an era like that of 1836–7 and '8, and what guard would your plan furnish? Worse than none at all. The people were as crazy as your Legislature, and would have voted for a bank, or a dozen of them, in every village or school district of the State. The object of organic law, of constitutional inhibitions, is to guard against just such a contingency.

But, sir, let us look at this State stock security system, and see if there are no objections to it. Why, sir, you are compelled to assume, as a first fact, that the general government and your State government is forever going to be in debt, and have in the market large amounts of stocks. I am among those that believe that governments, like individuals, in order to be prosperous should be out of debt. But look for a moment at the danger of this plan. By it you create, as matter of necessity, an organized, unscrupulous and active party in your various States, who favor the policy of States not only getting in debt, but keeping in debt. To illustrate: suppose we have in our State fifty banks, with an aggregate capital of two or three millions of dollars, based upon an amount of State stock deposited as security for that amount of circulation. Every officer, stockholder, employee and party in interest in these institutions, scattered over the State, are leagued in efforts to keep your State involved in debt. Add to this the fact that every person and every class of persons who seek to engage in the business

of banking, are combined to induce still more extended indebtedness to furnish them with a basis for operations, and then tell me whether your system is not liable to the most serious and grave objections. I said, sir, that I had had no experience in this kind of business, but I have read much upon the subject, and my deliberate conviction is, that all systems of banking are but modifications of the gigantic plans for swindling, that the history of the South Sea bubble, of John Law's Mississippi banking scheme, and the old bank of the United States, and thousands of others that might be instanced, discloses.

But, sir, one other notable plan to make a safe system has been hit upon, to which I must advert. I do so to call attention to it without assuming the one side or the other of the proposition as the true one. "Personal liability of the stockholders" is the last anchor proposed to hold to its moorings, with absolute certainty, this treacherous bark. I presume it will not be pretended that the personal liability of a man pecuniarily worthless, will be of any possible use to the creditor or bill holder of these institutions. Now, let me ask gentlemen whether this absolute liability provision for all the debts of the proposed bank will not prevent men of real capital, who actually have money to loan, and look to banks as a good mode of investing, from becoming stockholders? If so, the direct tendency of the whole thing is to confine the business of banking to that class of men who have been, in this State and others, generally engaged in it—men who want to borrow money, rather than those who have it to lend; in short, adventurers without capital, sharpers seeking to live by their wits at the expense of honest men.

I have already extended my remarks far beyond what I intended, but I could not in justice to my own convictions of duty, do less than to define briefly the amendment I proposed. You talk of safe banking systems—of good systems—of creating by banks a sound currency, and furnishing facilities to commercial men for the prosecution of their business. Experience has demonstrated the futility of the first, and proven that the latter objects can be attained without the aid of this system of legalized robbery and plunder. I hope the substitute may be adopted.

Mr. HANSCOM then modified his proposed substitute so as to read "creating or renewing."

Mr. GOODWIN said, this presents the distinct question between the prohibition of all banks and whether any banks shall be authorized, either under a general banking law or the direct sanction of the people. After what I have said, sir, the committee will see that I am keenly alive to the evils that resulted to this State under the banking laws that existed in 1838 and '39. No man can be more so; no man observed more of those evils and the distress occasioned; and unless the Convention shall decide in the first place, that banks shall be established under a general law, sanctioned by the people, or that the question as to particular institutions shall be submitted to the people, and in that I am not particular, I shall go for a prohibition against all banks. I know, sir, that many men of business and good citizens, believe that, as we have a banking currency from other States, it is desirable and necessary to have banking institutions of our own, under our own constitution and laws. A large portion of our currency consists of bank paper introduced from other States and the Canadas. If that could be avoided, if you could erect around our State a Chinese wall against this foreign currency, and have for our circulating medium nothing but coin, I should be disposed to favor the proposition. I believe you would have an ample currency; that the precious metals now existing in the commercial world, and the quantities now so rapidly produced by the mines of California and other countries, would furnish an ample supply.

It is insisted, however, by men of wisdom and experience, that you must have some of those institutions in the State, but guarded by law so that the bill holders shall be protected. An objection has been made that if the people are called upon to establish an institution in a particular part of the State, those in other parts would not be advised so as to act understandingly on the subject. I do not concur in this view. A proposition for an institution of that kind will be generally known; it will circulate with rail road power and telegraphic speed. Intelligence in regard to it and all its incidents will be communicated, and they will

act as well, as intelligently, in one part of the State as another. If it can be submitted to the people, I am not particular about the mode, so that it effects the object. To provide a circulating medium is part of the sovereign power of the State. It has been always so considered. The power of determining what shall circulate as money belongs to the sovereignty of a country. The government of the United States, under the constitution, say what shall be money; but in the States they have in fact substituted bank paper, which has taken the place of the constitutional currency. You have in fact abolished the circulating medium established by the United States government. If these banks are to be established, who should have the power? Those in whom the sovereignty is vested.

This brings us back to the proposition before the Convention, and the question is, who shall exercise this sovereignty, the people or their agents?—for the Legislature are but agents when they exercise this attribute of sovereignty. It is right that the direct agency of the people should be recognized in the first instance. In view of the feeling on this subject, I am in favor of referring it to the people for their own action in their sovereign capacity; if this cannot be done, then I am for the prohibition.

The gentleman from Berrien has alluded to the past operation of banks, and to the banking law which resulted so disastrously. Surely, from the mortgage of wild lands as a basis, failure might have been expected. Such was the result. But there was another feature in that system to which the gentleman has not alluded. It was the suspension of specie payments. The Legislature not only applied the suspension law to those banks in existence—to those institutions already in operation,—but to those which might afterwards come into operation under the general law. These were in fact permitted to issue their notes without the obligation to pay. But for that measure, I do not believe those disasters adverted to would have ensued. Without that, a large portion of those "wild cat" banks would never have existed; the specie circular of the general government would have prevented, or soon have extinguished them, and the injury could not have been so extended.

Mr. BUSH was opposed to Mr. Goodwin's amendment. It proposes that the question shall be submitted to the people whether they will or will not have banks. If they decide in the affirmative, then the Legislature shall go on and provide a law, under the uniform operation of which banks may be created. This, sir, is not so safe as a banking law submitted to the people—its provisions and details analyzed and criticised by the people and the public press. Let a law be first passed by the Legislature, and if sanctioned by the people, banks may grow up under it. He [Mr. B.] would go for the proposition of the gentleman from Oakland in preference to that of the gentleman from Wayne.

Mr. BRITAIN—Mr. Chairman, the gentleman from Wayne [Mr. Goodwin] has called our attention to the evils growing out of the suspension law, and particularly those resulting from that portion of the law allowing banks under the general banking law to come into operation under the suspension of specie payments. Now, sir, I want to call the attention of the Convention for a few moments, first, to the objects and consequences of the suspension law; and, secondly, to the extension of that law to what the gentleman has been pleased to denominate the "wild cat" banks.

1st. Was there a necessity for the first suspension law? What did the law provide for the banks, what were its objects, and what were its consequences?

Sir, suspension did not begin with Michigan; had it so begun, Michigan had been without apology. But, sir, it began with States east of us, and extended to States south and west of us. New York, Ohio, Indiana, Illinois, and, in fact, all the States with which Michigan had any commerce, adopted the policy of suspension; and was it possible for Michigan to sustain herself without it? Sir, when the people of Michigan asked their Legislature to grant the banks of Michigan a suspension of specie payments, those banks (and they were all of them chartered banks) had more than a million and a half in circulation, which would certainly have been brought home to them for redemption in specie, and much of it by the brokers of those States which had refused specie payments. Now, sir, was it possible for the banks of Michigan

to redeem their circulation in specie, when they could not obtain specie from the banks of neighboring States upon their bills? And what would have been the consequence to the bill holders of a failure on the part of these banks to redeem in specie on demand?

Why, sir, how could the banks of Michigan redeem in specie? Where was the specie to come from for such a redemption? Suppose a broker from Cleveland or Buffalo had demanded payment in specie from the Detroit banks upon half a million of their bills, and the Detroit banks had promptly tendered him in payment the bills of Ohio or even New York banks, would this broker have received it? Every gentleman who has given the subject a moment's reflection knows that he would not, because he had a legal right to insist upon specie, and specie was then worth a large premium.

Let us now follow this process of redemption a little further, and suppose that the Detroit banks had met this first demand of half a million, by payment in specie; could they have replenished their specie by sending home the bills of Ohio or New York banks, or those of the banks of any other State? Sir, the idea is preposterous. Then how could they have replenished their specie, and from whence could it have been obtained for continuing specie payments? Sir, it could not have been obtained, except by the payment of such premiums as no bank could pay and sustain itself; and sooner or later these banks must have failed to pay specie on demand, which would have worked a forfeiture of their charters, and carried with it to the bill-holders all the attendants upon broken banks with an extended circulation.

Sir, it was to prevent the occurrence of this dreadful evil, and to enable the banks to redeem their circulation without loss to the bill holder, that the suspension law was passed; and the law itself only relieved the banks for a given period from a forfeiture of their charters for refusing or failing to pay specie on demand. It did not either directly or indirectly relieve them from any of the legal remedies provided to enforce the collection of debts.

Sir, this law was not passed, like the suspension law of 184, to enable banks to increase their circulation; but it was pass-

ed to enable banks to redeem their circulation. And it most fully accomplished the object for which it was passed; for under its exemptions almost the entire million and a half of circulation was redeemed, without the loss of a dollar to the bill holders. An intelligent public will judge of the wisdom and justice of the measure.

Mr. Chairman, I consider it the duty of every citizen, on all proper occasions, to defend his State against all unjust imputations, and I therefore beg permission to call the attention of this Convention for a few moments to another measure, which necessarily grew out of this measure of suspension, and for which Michigan has been most unjustly and immeasurably censured, both by the designing and inconsiderate. I allude, sir, to the law granting redemption to persons having lands sold upon mortgages.

Sir, it is the duty of public men to ascertain the effect of public measures upon all the different interests of the State, and they have no right to advance one interest at the expense, or even to the prejudice, of another. Now, sir, the passage of the suspension law, without giving to the mortgager a corresponding time for the redemption of his lands, sold during the suspension, must have been ruinous to this numerous, industrious and respectable portion of our citizens.

Let us, by a simple illustration, see what the operation would have been, as that is the only way to arrive at infallible conclusions. A. has mortgaged to B. his farm, worth \$5,000, to secure the payment of \$2,000 and interest in three years. About the time the mortgage becomes due, A. goes to B. with the money to take up the mortgage. B. looks upon the money and declines taking it because it is not specie. A. pleads with him, and says this money is all of it upon good Michigan banks; they were paying specie when I took it, and they will pay specie again next June. You are abundantly able to hold it until that time, and if you insist upon it I will pay you for holding it. But B. knowing his advantage, declines all arrangement, saying the law gives me the specie, and I must have it, or seek my remedy under the mortgage. A. now flies to the banks with their bills, in the hope that he can induce them to help him out of his difficulty. He

is received with great kindness by the bank officers, who assure him that they will do anything in their power to relieve him, and for a moment he is encouraged; but the next moment he hears with pain, the sentence which had been begun in such kindness, concluded as follows: "it would give us great pleasure to help you, sir, but there are thousands of others in the same situation. If we help one we must help all, which would be ruinous and impossible; and besides this difficulty, the board of directors in June last, entered upon our books a resolution prohibiting the payment of specie upon any of their bills during the existence of the suspension law, and that they really have no discretion in the matter." The case of the mortgager is now become hopeless. The mortgagee forecloses the mortgage, and on the day of sale demands the specie, which is not to be had—bids in the farm for \$500, which is worth \$5,000, and still holds the bonds of A. for \$1,500 more.

Now, sir, what could the Legislature do? They could not by law relieve the mortgaged premises from sale, as that would have been a "law impairing the obligation of contracts," and prohibited by the constitution. They must pass the suspension law to save the banks from failure, and A. from the loss of his money, in addition to the loss of his farm. Now, sir, I ask again, what could the Legislature do? Sir, they could do just what they did do; give to A. a remedy for the evils which the public interest required them to inflict upon him, by giving him such a time for redemption as would enable him, on the resumption of specie payments by the banks, to obtain from them specie upon his bills, and to redeem his farm with it, by paying to B. a fair interest for the use of his money; and thus, Mr. Chairman, saving from ultimate sacrifice, every legitimate interest of the people; and, notwithstanding the noise which has been made about "ex post facto laws," and exemption laws, by persons who were defeated in their unholy designs of plundering their neighbors, and turning them with their families houseless into the street, and by persons who have, without examining the equity of the subject, joined them in spreading this base slander upon our State. I am willing also to leave the wisdom and

policy of this measure to the judgment of an enlightened public.

Now, sir, one word to my friend from Wayne, [Mr. GOODWIN] who informed us when last addressing this Convention, "that the great error of the suspension law was that of extending it to the wild cat banks, and permitting them to come into existence under a suspension of specie payments, and that most of the evils experienced under the suspension law originated from this source." Now, sir, the gentleman from Wayne was in error. The provisions of the suspension act extending the privilege of suspension of specie payments to the wild cat banks, as they are called, was a very stringent one, and only entitled them to the privilege of suspension so long as their circulation did not exceed once and a half the amount of specie actually paid in and contained in the vaults of the bank at the time. Now, sir, had these banks been in a condition entitling them to the privileges of suspension, they would have been perfectly secure, and no evil would have been felt from them.

Now, sir, let us see what would have been the condition of a free bank coming into existence under the suspension law, with \$15,000 paid in. Under the law she could put in circulation \$22,500; what would she have to redeem this \$22,500 with:

1st. She would have specie,	\$15,000
2d. Endorsed notes, just received,	
and should be good,	22,500
3d. Real estate securities at one-half the assessed value,	50,000
	<hr/>
	\$87,500

Thus giving to the bill holder \$87,500 as security for the redemption of \$22,500. And if the bank should decrease its specie to \$10,000, it must reduce its circulation to \$15,000, or lose the privilege of suspension; and for the redemption of this \$15,000, it would have:

Specie,	\$10,000
Endorsed notes,	15,000
Real estate securities at one-half their cash value,	50,000
	<hr/>
	\$75,000

Making in all in availables just taken out, and of course good, \$75,000 for the redemption of \$15,000. Now, sir, if such

banks would not have been safe, I would be happy to have the gentleman show me a safe bank.

At the time of the passage of the suspension act, several of these free banks were coming into existence. It was not expected that they could do business under the provision made for them, nor was it intended that they should; and it was given them merely to enable them to complete their organization and live to the expiration of the law. The evils to which the gentleman alludes did not arise from the suspension law, nor from their charters; but from the direct violation of both; and those laws are no more chargeable with the evils practiced, than the law punishing murder is with violations of that law. Had gentlemen examined the law and informed the bill holders what their rights were under it, instead of joining in the cry of "wild cat" and "red dog," raised by designing and interested bankers, they would have rendered the State a much more essential service.

When the gentleman from Oakland [Mr. HANSCOM] offered his proposition this morning, prohibiting the State from creating banks and from passing any law under which banks could be formed, I could not avoid realizing the embarrassing condition in which it placed the Convention. If they voted with him, they voted for giving Detroit a monopoly of banking for all time to come; and if they voted against his proposition, they would be branded by him as opposed to the democratic doctrine of opposition to banks. Now, sir, the gentleman from Oakland would have us understand that he is opposed to all banks, and he may be so; but if the banks of Detroit were to draw from their sinking funds \$50,000 and send here in the hands of an adroit manager to influence this Convention, they would instruct him to accomplish precisely what the gentleman has attempted to do. Sir, the proposition looks well on paper, because it smacks of the popular doctrine of opposition to banks; and no doubt it will receive the support of gentlemen whose democracy can never be found in their measures, but whose mantles are full of democracy and opposition to banks, and at the same time do precisely what persons fed by the banks to attend to their interests here would do.

Now, sir, if the gentleman will add to his proposition a provision that no banks shall exist in Michigan after 1852, he would show himself a consistent opponent of banks, and the Convention could vote understandingly upon the subject. But, sir, to vote for his proposition as it is, would be to vote for giving Detroit all the banks she now has, and prohibiting the balance of the State from having any; and every unprejudiced mind must see that this would be great injustice to the balance of the State, as it would continue the whole produce business of the western portion of the State subject to the control of the city of Detroit.

Sir, justice to the different portions of the State demands that you shall have no banks in the State, or that you shall permit them to be located where the business of the people requires them. If you reject banks from the State altogether, and the theory of those opposed to banks be true, capital will at once find its way into the State for the transaction of all legitimate business; and when it comes, sir, where will it stop? Will it all seek and find the same location? No, sir. It will go where the business requires it, and our flourishing manufacturing towns in the west will be sure to have their share. But, sir, will individual capital go to those places from the transaction of the produce business while you have banks in other portions of the State? No, sir, individual capital cannot compete with bank facilities, for the following reasons:

1st. Individual capital must be on hand for business, at the expense of interest, while bank facilities only pay interest on the amount actually in business.

2d. If there are banks in the country, persons coming into the country to purchase produce or provisions always go to the banks for the purpose of making an exchange speculation between the funds they bring in and the less valuable funds of the banks, which they are told will be good enough to purchase the farmers' produce with; and also to learn from the banks what business men of the country are worthy of confidence. Now, sir, any man can see that a bankrupt who was receiving bank facilities would be spoken of as worthy of credit, by being told that the banks were doing business with him; while the

individual doing business by the side of him, with an available capital of \$50,000, would be spoken of as a person of tolerable business habits, but about whom the bankers knew but little; they think he is a pretty good man, but say the bank has always preferred to do business with the other. Sir, this account from a banker is always sufficient to carry the stranger into the hands of the bank pet. And now, sir, let me ask gentlemen if this is a fancy sketch? Have they not seen wealthy and industrious business men actually robbed of their business in this quiet but sure manner, until they have become bankrupts, and this same business carried to bankrupts who remain in banks still, the banks securing to themselves all the profit of the transaction? Sir, if capitalists go into the produce business in the vicinity of banks, it is their true policy to invest their own capital at interest, and depend upon bank facilities, because they cannot, upon their own capital, compete with bank facilities.

Now, sir, I wish to apply this conclusion to the question under consideration. The only safety for the farmer is in competition for the purchase of his produce; and four things are self evident, all of which prove that a few banks in one part of the State are against this competition:

1st. If there be any banks in the State, bank facilities must purchase the farmers' produce; because, as already shown, individual capital cannot do it in competition with bank facilities.

2d. If there be but few banks, and these all in one part of the State, they can confine these facilities principally to their own friends, and only grant them upon conditions which prevent the competition above spoken of, so necessary to the producer.

3d. The produce dealer and the producer in the immediate vicinity and under the eye of the banks, will have a preference and an undue advantage over the produce and dealers of the more remote portions of the State.

4th. The dealers of the more distant portions of the State must add to the ordinary expenses of their business that of procuring bank facilities at so great a distance; all of which must be paid by the farmer in the decreased price of his produce.

Now, sir, do not these facts prove that

one of two things should be done by this Convention. 1st. Either free the State entirely from banks, and permit individual enterprise to carry capital wherever business invites it; or 2nd. permit individual enterprise to make banks wherever business invites it to make them. Sir, anything short of one of these two things would be injustice to the western portion of the State, and should not be entertained by this Convention.

But, the gentleman from Macomb [Mr. ROBERTSON] says "he cannot go with the gentleman from Berrien [Mr. BRITAIN] in favor of uniting all the banks, with the friends of banks in favor of a general banking law, by which more banks would be created." Well, will the gentleman from Macomb do another thing? Will he go with us and do equal justice to the east and the west, by repealing all bank charters in the State? Oh no, he cannot possibly do that, because bank charters are vested rights, and inviolable contracts.

Now, Mr. Chairman, the gentleman from Macomb, has in these statements said one of two things, which I regretted to hear from that quarter.

1st. He has said in effect that he could not consent to let the whole people have banks, even if they wanted them.

2d. He has said in effect that he would secure to the banks and their friends in his own eastern portion of the State, all of their present banking privileges and facilities, as a bribe to induce them to join him in withholding from us those privileges which he and they so liberally enjoy, and compel us to remain tributary to them for commercial facilities forever. Sir, I have said that I regretted such sentiments from such a quarter. Sir, I do regret them; they savor more of calculating selfishness than of self-sacrificing patriotism; they do more honor to the head than to the heart.

Mr. Chairman, I trust the Convention will pardon me for this trespass upon their time. I have both felt and witnessed the evils of which I have been speaking, and I have been so strongly impressed with a sense of the obligation of this Convention to secure to the different portions of the State an equal opportunity for commercial facilities, and so entirely satisfied that this can only be accomplished by either reject-

ing all banks from the State, and thereby making it safe for private capital to go wherever business invites it, or by permitting individual enterprise to create banks, under proper restrictions, wherever business will justify it, that I could not forego the privilege of urging it upon this Convention.

Mr. MASON hoped the amendment would not be adopted. He had no objection to submitting a general law to the people; but to submit each and every bank charter to the people would be a perfect farce. The gentleman from Wayne proposes that each institution shall be submitted to the people. He [Mr. M.] would submit to the Convention whether such a proposition would be a test of the opinion of the people on banking generally? Suppose the Legislature passed an act to establish a bank in the village of Lansing. Who would care about it except the people of Lansing? Other parts of the State might go against it, however necessary it might be for this place or this section of country.

Mr. N. PIERCE had calculated this was not a new subject; he presumed every member knew something about banks. These are all old stories about banking. It has been handled by political parties; and of crimination and recrimination we have had enough for years. If any banks are to be established, we want safe banks. He would not give anything for a corporation whose circulation was worth nothing. If any gentleman could bring up anything new on the subject he would be glad to hear it.

The question is whether we shall have no banks and have a flood of paper from other States. It has been the case that we have used notes of other States and done business with them. He would rather have no banks than have them doubtful, irregular, or evading the payment of their notes in specie. If you increase the circulation it will increase the price of stock; it is more for the interest of the producer than the consumer.

I am in favor of having a plenty of circulation, because I am a farmer. If you increase the circulation, then farms are worth more. With a specie circulation we shall get three or four dollars for an article which with a paper circulation we may get fifteen. A man traveling, too, would

have more money to spare. But (said Mr. P.) as this subject has been much agitated, I think it may be settled without arguing the matter a week.

Mr. HANSCOM—From some of the remarks of democratic members, I think I have been misunderstood, or they are deluded. I had supposed that they would have gone against banks, which they have been battling for years, and have almost got the victory. But they come in here and throw down all the barriers and let in all the influences that can be brought to bear in favor of them. The gentleman from Wayne, to whom we must award some credit for purity of intention, would leave the power in the hands of the Legislature, or the people, on this subject. Sir, it is too idle. In 1837 the people would have voted for a bank in every school district in the State. We have trusted the Legislature with that power, and what has been the result? If his proposition prevails, I have no doubt the same result will prevail in future.

Mr. ———.—The gentleman from Oakland, [Mr. HANSCOM,] when moving to strike out, said we needed banks, and that they should be put in a safe condition, and the bill holders be protected; and that the rest of the article should be struck out. Among those provisions he would strike out what is in the individual liability clause. By his adroit parliamentary tactics, he comes up against all banks, and has withdrawn that proposition. Whether he is sincere or not, I do not know; but when he first came out, I supposed he was in favor of banks.

I am not surprised at his course, when I recollect he was opposed to single districts for representation—to biennial sessions, and to limitation of the time of the session. I was not surprised at his action on this question. He, and others on the same side, are opposed to leaving it to the people—they have a distrust of the people—it is natural to suppose so, because the banks are opposed to the interests of the people; they are endowed with special privileges, distinct from the general privileges of the people.

The gentleman, [Mr. PIERCE,] contends we should have bills from banks of our own, because others would come in. But, should not we establish a principle? Should

we establish a monarchy because there are monarchs around us? The protective system is opposed by the people, but it is advocated by the high tariff party on the ground that other nations have protective laws. The gentleman would sustain banks on the same principle. But there was no reason that because other nations had protective tariffs, we should; or that we should establish banks because other States have suffered and are suffering from them. I am in favor of submitting the question to the people whether we are to have any banks or not.

Mr. GOODWIN said there had been three propositions before the Convention: the question of bank or no bank—the proposition to submit the general banking law to the people, and that also requiring each separate charter to be submitted to the people. The gentleman from St. Clair [Mr. MASON] thinks the proposition to submit every charter to the people a farce, and that where they were not interested in the particular institution, they would vote against it. I do not know, if he believes the people would vote against establishing them, whether he would give the power to the Legislature to establish them. The people would take interest enough to examine and decide whether an institution should be established or not. If the people in their sovereign capacity prohibit it, I would say no. Let us have an entire prohibition or leave it to the people to say so or not.

Mr. MASON—I said I saw no impropriety in submitting a general proposition, but that in establishing a local institution there would be no public test of the opinions of the people. I said it would be a farce in submitting the question of a bank at Lansing to the people of St. Clair. If some general principle was about being adopted, the people generally would be interested, but not in mere local institutions.

Mr. KINGSLEY said—I like to agree with the gentleman from Wayne, [Mr. Goodwin,] for he is generally right; but, in this case, he is clearly wrong. It is provided in the first section of the article under consideration, that corporations may be formed under general laws; this allows the Legislature to make a general law under which banks may be organized; and the proposition of the gentleman from Wayne is, in effect, that no single bank

shall be established under such general law without a vote of a majority of all the votes cast in the State at some general election upon that single question. This provision seems to me to be unwise, if not impracticable. Several important things must be well understood by all the electors in the State before they can vote understandingly on such a proposition. They must first be well acquainted with the general law under which the bank is to be established; they must be acquainted with the place where the bank is proposed to be located—its location, its population, and the amount and kind of business done therein, and its proximity to other banking institutions. Suppose the proposition is to locate a bank at St. Joseph; tickets must be provided for all the electors, something like this: "Bank at St. Joseph?—Yes." "Bank at St. Joseph?—No;" and the people in all parts of the State, even in the Upper Peninsula, are to vote upon the question;—people who may never see a bill from the bank they may authorize, and who cannot be acquainted with the subject upon which they vote. And further, many propositions of the same kind may be presented at the same time, enough to make a little book. Still more, this question will be likely to be presented in some form at every general election—the exciting question of "bank or no bank;" for that will be the question. We have just made provision in the constitution to get rid of one exciting question which was continually occurring at elections—the question of "license or no license;" now we propose to provide for leaving the people questions to decide at the general elections far more mischievous and exciting than the one we get rid of; questions which cannot be decided intelligently by all the people. The proposition, it appears to me, is too absurd to receive the sanction of this Convention.

In speaking of the question directly before us, gentlemen have spoken to the question whether any banks shall be allowed to exist in this State. Following the example of others, I will say a few words upon that question. If the question were, shall there be any banks in the United States? I think I would say no. That would place all the States upon the same footing. But we are so situated that it be-

comes a question of State policy, whether we shall incorporate banks in this State to supply the currency for the State, or depend upon the institutions of other States to furnish that currency. In voting upon this question I shall not vote for the provision that prohibits the establishment of any bank in the State. Nor is there any danger that future Legislatures will grant loose and dangerous charters for banking purposes. They are too well acquainted with the whole principle of banking to allow themselves to be over-reached by the applicants for bank charters. The people of no State are so well schooled in the mysteries of banking as the people of this State. No people have paid so dearly for their instruction on that subject, and none will remember it longer.

The wild cat banks which gentlemen have spoken of, are fresh in my recollection. I voted for the law that established those banks, and for the law that authorized their suspension of specie payments. But there was incorporated in that law a severe penalty for issuing paper for more than a fixed amount beyond the amount of specie actually in the vaults of the banks. If this law had been regarded, no injury would have been done. It was not regarded by the banks, and no one enforced the penalty; hence the country was flooded by a worthless currency. The general banking law of that day was voted for through ignorance and the pressure of the times. The people themselves would then have voted for the same system, had the proposition been submitted to them.

Mr. WHIPPLE, (in his seat.)—I did not vote for it.

Mr. KINGSLEY—That may be. Sometimes members will vote against a measure that they wish may succeed. The remark may not apply to this case, but it is a trick of some to vote against a law that may operate injuriously, so that if it does operate so, they can point to the vote and say—"I voted against that law." It is true that, with whatever good motives one supports a measure that turns out bad, he will be condemned for it, though his very constituents were in favor of it; for they will say he should have known better; while, however beneficial may be a measure that he may carry, he will get no credit for it, for he has done no more than his duty.

But, to go back to the bank issue. After having been caught in voting for the general banking law, and seeing the evils that grew up under it, I endeavored to inform myself upon the subject of banking, and read "Gouge on Banking," "Cobbett on Paper Money," and whatever I could find written on that subject. I will not admit, now, that I am entirely ignorant of the principle of what is called banking. The question is not whether banks are beneficial or injurious to community, but it is whether this State will, in all future time, prohibit the establishment of banks within its limits.

All the States with which the State does business have established banks, and use a paper currency which their own institutions furnish: the States of New York, Pennsylvania, Ohio and Indiana, and to these may be added Canada—all of which may be said to join us, and most of our trade is with them—that trade is daily, and to a large amount. Now, it is impossible, while the States that surround us, and with whom our commerce is, use a paper currency, that we should use a specie currency. The gentleman from Wayne [Mr. GOODWIN] says if we would exclude bank paper from the State, specie would follow in and take its place. It cannot be so. It is impossible among thirty States, all of which use a paper currency, to select one State therefrom and say that it shall have only a specie currency, while commerce is kept up between that and the other States. It is an established principle that specie will not become a general currency where bank paper is used as such. A number of years ago we passed a law to prohibit, under a penalty, the circulation of bills of other States of a less denomination than five dollars. The law was a dead letter upon the statute book; no one regarded it. Much the same may be said of the law prohibiting the circulation of bank bills from Canada. Who has ever been prosecuted for a breach of that law? And yet it is broken every day. But for information on this point, let us look to a State that has no bank and can have none. The constitution of Illinois provided that there should be no bank established in the State except a State bank. There was a bank at Shawneetown, established under the territorial government;

and the State after its organization established a State bank, which went into full operation with its branches. A crisis came which crushed all these banks; their bills depreciated in value, and finally went out of circulation. Since that time they could have no banks.

Mr. COOK (in his seat)—Illinois has had a new constitution since that time.

Mr. KINGSLEY—Then in that I am behind the times. The recent volume of constitutions has no new constitution for Illinois in it. I obtained my information from the book before me. But that will make no difference with the argument; there are no banks in the State of Illinois. Have they a specie currency? Far otherwise; they have the worst possible paper currency. A man in Chicago by the name of Smith issued last year, it is said, half a million of dollars in paper, without any authority of law.

Mr. BRITAIN (in his seat)—Fourteen hundred thousand dollars were issued by him.

Mr. KINGSLEY—Then I have named much too small an amount. This fourteen hundred thousand dollars was issued and kept in circulation for the want of a better or different currency. No one was legally responsible for its redemption. It was issued under a pretended license to the Wisconsin Insurance Company; which indeed was no license at all—or if there was any such license, it was long since taken away by repealing the act.

Yet, this large amount was kept in circulation in a State where *they will have no banks!* A currency for which no one is responsible, and which appears to be entirely beyond the control of those who tolerate it. And this is not all; for this one man cannot supply a sufficient currency for the State. I have been informed by those who have travelled through the State for the purpose of collecting money, that no other State has so bad a currency—that the most uncurrent money from other States found its way there—that even that was very scarce; and when they had made their scanty collections they were compelled to pay, on reaching Chicago, five per cent. for a draft on New York, in such money as they could collect in Illinois.

I had occasion to be in Chicago last

winter, and learned these things and more in relation to their money matters. In going along the streets of Chicago you will very often see signs out: "money to loan," "money to loan on deposit of goods." You would think money was plenty in that city. Go into one of the offices and ask them how they will advance money on good paper; they will tell you for from five to seven per cent. if the paper suits them. But you will be surprised to find that they mean from five to seven per cent. a month; and that the paper they want is a kind of pocket judgment, which the money lender always has with him, printed ready to fill out. If this pocket judgment can be obtained against a man unquestionably good, so that the lender can go at the time the money is to be paid and get an execution, and levy on property immediately, if it is not paid, you can get money for about seventy per cent. per annum. The same state of things, it is said, exists in the State of Wisconsin, another State in which they will have no banks. They have the worst paper currency, and very little of that.

The State Legislatures now require ample security for the redemption of bills which they authorize banks to issue. They require that the stockholders shall be personally liable for the redemption of the bills; and they require State stocks to be deposited as security for the payment of the bills. The last Legislature incorporated a bank at Ann Arbor. They required that the stockholders of the bank should deposit in the treasury of this State, United States stocks to the amount of the bills they are allowed to issue. They required the deposit of fifty thousand dollars, which cost, it is said, sixty-five thousand dollars, before they could issue bills to the amount of fifty thousand dollars. This bank may not be of much benefit to the county of Washtenaw; but it can do no injury. The bills of the bank are redeemable in the city of New York at three-fourths of one per cent.; which makes them better than any other paper currency in the State.

It is also very convenient for those living in the vicinity of the bank to buy drafts payable in New York. Heretofore we were compelled to go to Detroit to a bank or broker to get drafts. Whatever bills of that bank do circulate among us we shall know to be good. If other large villages in the

State shall have established in them a bank on as safe a basis as that at Ann Arbor, it will be a convenience to them, without doing injury. If such banks, with those we already have, furnish the currency for the State, we shall be saved from that doubtful and depreciated currency which finds its way into a State where they have no banks.

I will vote for the proposition to leave it to the people to say by their votes whether they will have any banks in the State; but will not say by my vote here that we will have none.

Mr. CRARY was opposed to the proposition of the delegate from Oakland, [Mr. HANSCOM,] and from Wayne, [Mr. GOODWIN.] The amendment of the latter gentleman pre-supposes that the people will make themselves familiar with the wants of localities far removed from them. Our own want of knowledge of the situation and condition of several of our northern counties should teach us that the voters at Copper Harbor will not be likely to be very well informed of the banking necessities of an interior village in the southern part of the State.

The amendment of the delegate from Oakland would operate as a bonus to the present existing banks. The adoption of our constitution with such a clause in it, would enhance the value of their stocks as much as the adoption of the Texas constitution did the stock of the old bank of the Texan Republic. Individually, I am opposed to the establishment of banks in the State. We are, to so great an extent, a debtor country, as every new country must be, that banking cannot be legitimately carried on among us. You can throw no safeguards around, so as to render them safe against the fluctuations which are ever incident to a new country. In a season of great prosperity banks may flood the country with their paper; but one short crop will force them to contract their issues, so that money can only be plenty when the people have abundant means to purchase it. At such times money will be plenty without banks. My opposition to banks, however, will not prevent me from making provision for them, if desired by the people. We propose leaving to them the settlement of some other important questions, and this may be included among the num-

ber. If you say there shall be no banks, your constitution may be rejected; for there was one party in the State who were generally in favor of banks, and perhaps one-third of another party. Let the people decide the question as proposed by the Article. The question should be taken on a bill drawn up and submitted, and not on a proposition of banks or no banks. If taken on a bill, the details would have to be acceptable; but if taken on the proposition of banks or no banks, we might afterwards have established a system of banking that would not accord with our wishes.

Mr. HANSCOM—I had supposed my proposition embraced the whole; but as the gentleman from Calhoun [Mr. Crary] says it will be a bonus to the banks which have been established, I will go for the proposition of the gentleman from Berrien, for the total annihilation of banks. I would desire to reach the root of the whole evil, in the proposition I made. I would only further say that gentlemen have either designedly, or for some reason or other, misunderstood my first proposition. I did not intimate that I was in favor of one word of it. I have been for years opposed to this system of plunder and fraud. Our own experience is the best experience. But gentlemen must know, on reflection, that we are coming on the verge of a commercial revolution. Those convulsions come round in rotation. While we are free from their influence, let us guard against those monopolies and those crises. In '37 the people would have voted for a bank in almost every school district in the State, and a rail road to every man's farm. This shows that we should throw around all the guards we can, that the people, in a moment of excitement, may not overthrow every thing.

Mr. VAN VALKENBURGH was opposed to submitting single charters to the people. A number of questions are involved which involve principles. First, shall banks be chartered? If so, how? By special charters or by law. Shall banks or no banks be submitted to the people? Shall any banks be chartered? Will the Convention countenance the opinion that they have been beneficial to the community? Did they prove so in times gone by? The gentleman from Wayne says the community have suffered. Have they not al-

ways been a gangrene on the body politic, sending out their victims to beg their bread from door to door?

It appears to me (said Mr. VAN V.) that the experience of our State and of all the States should warn us against an improvident system, at least. I am with my colleague, [Mr. HANSCOM.] I would make war on banks. Since President Jackson strangled the monster, public sentiment has endorsed it. With the California gold and mint drops, we can get along very well without banks; but if we are to have banks, I would submit it to the people—banks or no banks—and then leave it to to the Legislature to establish banks, in case the people sanction it.

The gentleman from Kalamazoo [Mr. HASCALL] asks if my colleague [Mr. HANSCOM] is sincere? What reason has he to call him to account for his sincerity. I believe him to be sincere. I will not doubt it, because I do not know the reason of his hostility to banks. If banks are to be chartered, I am for submitting banks or no banks to the people.

Mr. GOODWIN—The vote on a single institution would not be considered with regard to the general law. I do not see the difficulties with regard to determining whether a bank should be established at a particular place. What are the particular circumstances in reference to which that proposition should be determined? It involves two propositions: the first is, whether there should be an increase to the banking capital? The people are the only tribunal to decide that. If that is decided, then it becomes a question as to the particular point at which it is about to be located. Can they not consider the wealth, business or prosperity of a place which shall have a charter, not for their particular benefit, but for the whole State?

The substitute offered by Mr. Goodwin was negatived.

Mr. WOODMAN moved to amend the substitute by adding thereto as follows:

"Until the same shall have been submitted to a vote of the electors of the State at some general election, and been approved by a majority of the votes cast on that subject at such election."

Mr. McCLELLAND—At the commencement of the session, I offered a resolution of inquiry, which contained the

principle of the section stricken out, and about to be reinstated by the amendment of the gentleman from Oakland, [Mr. WOODMAN.] Having great confidence in its application, it shall receive my cordial support.

I believe that if the bare, isolated proposition of "bank or no bank," be submitted to the people of this State, unless a most radical change has been effected recently, it would be decided in the negative. I only judge from the sentiment prevailing in the section in which I reside. There, and I think in most of the southern counties, the people in the country are opposed to the banking system, unless you can satisfy them that the system about to be adopted will perfectly secure the bill holder. In order to do this, the details must be exhibited, so that they can scan and scrutinize every line and feature, and decide for themselves. The absolute power of adopting a system without any reference to them they are unwilling to confide to any body of men; and is it to be wondered at? Never was a people so much imposed upon, and defrauded by bankers and those engaged in banking; and the Legislature was made the instrument by which these frauds were perpetrated. Gentlemen need not flatter themselves that the people are so forgetful of the past as to authorize, blindfold, the incorporation of another batch of banks. I would not myself vote for an unqualified power in the Legislature; and when the law is presented for ratification to the people, I must be convinced that all its provisions are safe and satisfactory before it receives my vote.

It is true our State is flooded with the issues of banks of other States, and generally the most worthless kind of currency. It may therefore be necessary, in order to avoid paying tribute to others, and to escape from the evils we cannot otherwise prevent, to adopt some system in our own State. The great difficulty is in so guarding it as to protect the bill holder, and prevent the frauds that seem to be incident to every system heretofore devised. If it is, on examination, found to be impossible to secure those who must from necessity receive the bills issued, then it is our duty to prohibit it entirely. The depositors and stockholders usually take care of themselves—at all events, their partici-

pation in the concerns of a bank is voluntary. Not so with the bill holder; the course of business may be such as to compel him to receive the notes of a bank in which he may have little confidence. The poorer classes of our citizens are the greatest sufferers on the failure of banks, and they must be protected.

Why object to submit the law, with all its provisions and details, to the people. They are intelligent, and many of them fully competent to judge correctly of the general character and effect of such law.

Mr. WHITE—Will the gentleman from Monroe permit me to ask him one question: that is, does he propose to submit the law proposed to be passed to the people, as he would to the gentlemen of the bar, for their opinion?

Mr. McCLELLAND—I believe the people would be as safe judges as gentlemen of the bar. I myself belong to the profession, and think it an intelligent and honorable one; but I would rather, on a subject of this kind, rely on the virtue and intelligence of the whole people, than any particular class of our citizens. If a law is thus submitted for the sanction of the people, it will of course give rise to discussions—elicit the opinions and views of those conversant with such institutions in all their bearings—its defects will be exposed—its provisions severely scrutinized—and every one that pays attention to it can vote understandingly. If they afterwards suffer, they have themselves alone to censure.

As I before remarked, this, in my judgment, is the only method you can adopt which will satisfy the people. Ask them to trust the Legislature, and until this generation is swept away, and the terrible effects of past years are entirely effaced from the memory, your application will and should be rejected. I was in the Legislature when some of these obnoxious acts complained of were done, and remember well the manner in which they were accomplished, and the sad results to our people and State. In 1840, those bills which ruined many of our citizens and embarrassed every body within our limits, and whose effects are still sensibly felt, could not, as I believe, at the commencement of the session, when the members were fresh from the people, have obtained ten votes

in the House; and yet, by some unaccountable change, they were finally passed and became the law of the land. I do not ascribe this to party feeling—for I would not introduce it here—but all I mean to say is, that sometimes members of the Legislature forget they have a constituency, and are persuaded to do things which they sorely regret afterwards.

It is a well established fact that most of our bank charters are drafted by those to be interested in them, and that therefore the provisions are favorable to the bankers. The guards necessary to protect the public are either imperfect or not found in the bills. If the present proposition is adopted, I will venture the assertion that those who desire a general banking law will make it as perfect as they can before they submit it to the criticisms and scrutiny of the people. Their object will be to obtain their approval; and knowing the extreme sensitiveness that exists, and that the slightest defect exposed may defeat the project, they will act honestly and in good faith. This is right, and is not requiring too much. All in favor of a good banking system should willingly assent to it.

I am opposed to the latter clause of the original section, which prohibits the Legislature from passing another law for a given number of years, if the first be rejected. I would rather enable them to cure the defects pointed out, perfect the system, and again present it for the consideration of the people. If they reject every thing, then no banking system should be established. But, in my opinion, they are far more intelligent and reasonable than some here appear to suppose they are. If a good system is presented, it may be favorably received. I say to gentlemen, frankly, that I have no great attachment for such institutions; yet if they believe our citizens approve them, I am not disposed to prevent their testing their opinions; but I will not support any scheme that is not to be submitted to the decision of those who are most deeply interested in the question of its establishment. Let them judge for themselves, and I shall be satisfied.

Mr. BACKUS would enquire whether the terms would not indicate that the Legislature might pass a general or special law? He supposed the practical result would be to leave it in the hands of the

Legislature to make either a general or special law. The sole proposition presented to this Convention is "bank or no bank." For one—from the disastrous and fatal results of the system in the State—I am prepared to go with my friend from Oakland, [Mr. HANSCOM,] and say "no bank;" and exclude all the evils which have followed us with those institutions based on broken glass, broken nails, and swamps.

The State has been dotted over with these institutions. The process was begun again last winter. I am prepared to stop it. I will go with my friend to stop it. I believe with public opinion that the community are better able to carry on their mercantile affairs without them.

Mr. BRITAIN—Will the gentleman go to put down the present banks?

Mr. BACKUS—I will go as far as the law allows, and would submit the bank charters to the people. Individual bank charters I should be opposed to under a general law. I think the people have sent us here to impress in the constitution, bank or no bank, and I am prepared to go it.

Mr. MOORE moved that the committee rise, report progress and ask leave to sit again; but the committee refused to rise.

Mr. WOODMAN's amendment was then disagreed to.

On motion of Mr. CHAPEL, the following was substituted for Mr. HANSCOM's substitute:

"No banking law or law for banking purposes shall have any force or effect until the same shall, after its passage, have been submitted to a vote of the electors of the State, at some general election, and been approved by a majority of the votes cast on that subject at such election."

The substitute was then adopted.

On motion of Mr. WOODMAN, the committee rose, and through their chairman reported progress and asked leave to sit again.

Leave was granted.

On motion, the Convention adjourned.

Afternoon Session.

The Convention was called to order by the PRESIDENT.

On motion of Mr. COOK, the Conven-

tion resolved into committee of the whole and resumed the consideration of the article entitled "Corporations," Mr. CHURCH in the chair.

Section 3 was read:

"The officers and stockholders of every corporation or association for banking purposes, issuing bank notes, or any kind of paper credits to circulate as money, shall be individually liable, as co-partners, for all its debts of every kind."

Mr. J. BARTOW moved to amend by striking out the words "as co-partners," and "of every kind." The motion prevailed.

Mr. GOODWIN moved to amend sec. 3 by inserting after the word "association," the words "established under such laws."

Mr. G. said his object in the proposed amendment was to prevent a misconstruction, which would make it conflict with the constitution of the United States.

Mr. COOK did not understand the object of the amendment; he supposed it was to exempt corporations at present existing. If it did include them, it would be a salutary provision and beneficial in its results. Under the system proposed, better securities will be required of banks than are required of those now in existence. Therefore there would be much propriety in bringing them under the operation, if it were possible.

Mr. GOODWIN would enquire if it was the intention to bring under this provision the institutions now existing, which have no such provision in their charters? If so, it would bring them in conflict with the constitution of the United States and of this State.

Mr. FRALICK said he had attempted to get in something to protect the people. It says, "issuing;" which will apply to those notes that may be hereafter issued. If the Legislature has power to take away liabilities of contracts, what harm can arise from this? We have no security from them by deposits of stocks or otherwise.

Mr. COOK said it was supposed that this clause would affect those corporations in existence; what its effect would be, he could not tell. He had found this singular provision in the constitution of the State of New York: "Every corporation, after the first day of January, 1850, shall be liable," &c. He had understood it to

apply to corporations then in existence as well as to those afterwards created.

Mr. GOODWIN—The gentleman has not answered the question, whether it was the intention to alter the provisions of the charters of corporations now in existence.

If so, it must be in conflict with the constitution of the United States. If not, it is useless. He presumed it was the intention to place in the article only such provisions as would be operative, and not such as would lead to doubt and litigation. As to the remark of his friend, [Mr. FRALICK,] he did not know how his argument could apply; because the Legislature had done wrong, he would do wrong in this case. If the ground he assumes is correct, it is no reason the Convention should do this. The Legislature have attempted to repeal the charter of the Bank of Michigan, and the State Bank, but the United States court has decided such acts a nullity.

Mr. FRALICK—I only said if that were a good principle, it would be well to carry it out. With all due deference to the legal knowledge of the gentleman, [Mr. GOODWIN,] I believe it is brought into operation on the banks of New York. Several of the banks which were in existence have given up their circulation.

Mr. GOODWIN—Most of the old banks have organized under the general law, and it was to meet them that it was introduced in the constitution. No man of any legal information can for a moment suppose that this clause can reach those charters now in existence.

The amendment was negatived.

Mr. FRALICK moved to amend by inserting after the word "liable," the words "to the amount of their respective share or shares of stock in any such corporation or association."

Mr. WITHERELL wished to know what would be the effect of the amendment, if adopted. Whether it would apply to the amount of stock held at the time the suit was brought, or stock they might have held at the time of the failure?

Mr. FRALICK supposed it would apply to stock held at the time of the failure; that was the case in New York. He believed if it were made more stringent than that, you would not get the best class of men to engage in the banking business. It would be enough to make them liable to

the amount of their investment, and as much more in addition.

Mr. J. BARTOW would inquire when a man's individual liability would come into effect?—when would he become liable? If you introduce a clause of this kind, you may as well strike out the individual liability clause. The public would receive no benefit from it. There is but one rule. Let the public know, and let the individual know, that all they have, and all they ever will have, is liable for the faithful performance of their duty. This is the true ground. If you do not do that, you may as well sweep away every incumbency. Do not keep the promise to the ear and break it to the heart.

Mr. CORNELL would wish it limited to the time when the debt was contracted. If not, the person would sell out to avoid his liabilities, and the clause would be worse than useless.

Mr. FRALICK withdrew his amendment.

Mr. SULLIVAN moved to amend section 3, by adding thereto, "which were contracted during the time of their being officers and stockholders of such corporation or association, and for one year thereafter."

Mr. S. said it was evident that the stockholders, under difficulties, would remove their responsibilities to persons not responsible. To meet that case he offered the proposition.

Mr. WHITEMORE inquired if it was the intention of the gentleman to make the officers only liable? It appeared to him that it would make the officers only who were stockholders liable.

Mr. SULLIVAN—It perhaps does not go far enough; but it goes farther than the original section.

Mr. CRARY moved to strike out "and for one year thereafter."

Mr. WITHERELL—Suppose a debt is contracted, the officers are liable; the debt may remain three years, fresh officers in the mean time having been appointed. Are they to be made liable for the debt?

Mr. COOK—I can explain. It was the intention of the committee to make every person liable that had anything to do with banks. But here are so many judges, that it may be difficult to harmonize opin-

ions. It was intended to make them liable when the debt was contracted.

Mr. WITHERELL—A suit may be commenced against a corporation on a debt contracted a year before. You will have to get at the officers of that time, which is a secret in the hands of the bank.

Mr. HANSCOM said, the true construction would be to hold the parties liable at the time the suit was commenced. By adding the amendment of the gentleman from Cass, before adopted, it will be plain enough.

Mr. CRARY's amendment was lost.

Mr. SULLIVAN's amendment was then adopted.

On motion of Mr. COOK, section 4 was amended by striking out "ample," in the second line, and inserting after "security" the following: "to the full amount of notes or paper credits so registered."

On motion of Mr. WITHERELL, "on" was stricken out, and "bearing" inserted in the second line.

Mr. TIFFANY moved to amend section 4 by striking out all after "security," in the second line, and inserting the following:

"For the redemption of the same in specie; such security to be in stocks, bonds or evidences of debt issued by the United States, or of individual States, or both, bearing interest, which shall be deposited with the State Treasurer, and be at least when offered, equal in value to the amount of bills or notes registered and issued for circulation." Which was withdrawn.

Mr. WITHERELL moved to amend by inserting after "stocks," in second line, the words "of this State or of some other State, or of the United States." Which was also withdrawn.

On motion of Mr. CORNELL, the words "which shall be deposited with the State Treasurer," were inserted after "stocks," in the second line.

Mr. VAN VALKENBURGH offered the following as a substitute for section 4:

"The Legislature shall provide by law for the registry of all bills or notes issued or put in circulation as money, and shall require security in the stocks of this State or of some other State of this Union, or stocks of the United States, bearing interest, for the redemption of such bills or

notes in specie, to be deposited with the State Treasurer."

Which was not adopted.

On motion of Mr. COOK, "bill" was stricken out of the first line of section 5, and "of the notes or bills" inserted after "holders."

On motion of Mr. WITHERELL, the words "issuing bank notes of any description," were stricken out of section 6.

On motion of Mr. CORNELL, "unless with," were stricken out of the third line of section 8, and "without" inserted.

Mr. EDMUNDS moved to strike out of section 10, line 2, "or secured."

Mr. WHITE said it was provided in the Bill of Rights that no property of an individual shall be taken for public use without compensation being made therefor. As this section now stands, it reads: "The property of no individual shall be taken by any corporation other than municipal, for its own use, without compensation being made or secured, as provided by law." A State may take private property for public use, and may allow a corporation to take it, if its use be for the public; but it was never contemplated that a bank should be allowed to take property for their own use. That the Legislature can allow a corporation to take property, depends upon whether it is a public corporation. It can never be supposed that private corporations would be allowed to take property under any such provision as the Legislature might present.

Mr. TIFFANY said, under the provision in the old constitution, the courts had decided that they might take property without first making compensation. He hoped the amendment would be adopted.

Mr. WHIPPLE—No court in America has made such a decision, or ever could under such a constitutional provision. The courts have decided that it is competent for the Legislature to give them power to take property for their use, provided the use is public. Suppose the Legislature should grant a charter to a plank road company; that is for public use, because all have a right to travel on it; but would they allow a gentleman to build a plank road for his own convenience, and take, in doing so, a corner of his neighbor's lot? Clearly the Legislature could give no such pow-

er. If the public have the right to use the road, they may give the power.

The amendment was withdrawn.

On motion of Mr. WITHERELL, "other than municipal" was stricken out of the first line of section 10.

Mr. WHIPPLE moved to strike out section 10.

Mr. CRARY moved to amend section 10 by striking out "its own," and inserting "public;" which motion prevailed.

Mr. WHIPPLE then withdrew the motion to strike out.

Mr. McLEOD moved to strike out the first line of section 11, and also the second line to the word "no."

Mr. McL. said the first part of this section contemplates that, after thirty years, the Legislature may step in and repeal the charters of those corporations that may have an existence at that time. Now, sir, if, at the end of thirty years, there should be in existence any corporate powers, and there is no violation of their charters, I would ask if there is any reason why they should be deprived of their corporate powers? Is there any particular charm in the words "thirty years?"

Mr. COOK hoped the amendment would not be adopted. The section provides that thirty years hence all corporations in the State shall be placed on the same footing. If we have passed acts of incorporation heretofore which may be supposed by some to be irrepealable and perpetual, we wish to say that we shall have the right at the expiration of that time to control them. It does not provide that the Legislature of 1880 shall repeal them; but simply a declaration that we claim the right to amend or repeal those acts, as we do under the article on corporations.

Mr. DANFORTH—Such a provision would extend over the charters of our plank roads. Those charters have been given for sixty years. Some of them may build a plank road for one hundred miles under their charters. Would it be proper to cut off their corporate rights at the expiration of thirty years?

Mr. McLEOD—It does not say that they shall, but it gives them a power to do injustice. We say, in our acts of incorporation, if you will do such work you shall have such privileges for sixty years. Then if we allow the Legislature to cut off those

charters at the end of thirty years, they may do great injustice.

Mr. WITHERELL was in favor of the motion to strike out for the reasons assigned, and for another reason. The charter of the Central rail road has a longer time to run—a corporation with a capital of six millions of dollars. Most of the plank road charters run longer than the time mentioned here. He (Mr. W.) would be in favor of it if it applied only to the expediency of the matter. It has been decided in the United States courts that we cannot do it. It will effect nothing except assuming that the Legislature may grant charters and allow investments to be made, and then say a Convention may come in and cut away their rights.

Mr. WHIPPLE—The State courts and the United States courts have decided that it is not a constitutional power to repeal a charter, because it is in the nature of a contract. The decision of the courts are uniform on the subject, and such a provision would be of no use. We have the Central and Southern rail roads. It would be improper to put a clause in the constitution empowering the Legislature to repeal those charters. It would evidently be unjust, because it is a contract made constitutionally.

Mr. GOODWIN said he had offered an amendment which had not been adopted. He had done so with the same view and on the same principle. It struck him that this clause would be inoperative, because if retained it would place the constitution in opposition to the constitution of the United States. He entertained precisely the same views—that as these charters have been recognized as contracts, it would be at variance with the statute books of the United States. Though his proposition did not carry, he should not vote against this.

Mr. COOK said a similar clause existed in the constitution of the State of Louisiana. It is said that the courts always decide against it; but, sir, I am one of those who believe that those decisions are not in accordance with the institutions of the country. The people have not granted to Legislatures a power to grant irrevocable acts of incorporation. The proposition looks preposterous on its face—to give a right for a company to construct a road

fifty feet wide across the State. Gentlemen get up here and say we cannot touch that corporation; that we can never touch the rights granted in any manner. Sir, I do not believe in any such doctrine. I believe the right is with the people. They cannot confine themselves in perpetuity and prospectively. I propose that the people of the State shall say, that in 1880 the people of that time shall take the power into their own hands. I believe the courts will decide in favor of the constitutional provision. They will carry it out, although in foreign countries the charters are eternal.

Mr. WITHERELL—Does the gentleman from Hillsdale [Mr. Cook] mean to say that a power could be given to the Legislature of 1851 to repeal all the charters of all the different corporations in the State? We may get so far from the people that they may not be impressed with the feelings and opinions of individuals.

Mr. J. D. PIERCE—I fully accord with the sentiments expressed by the gentleman from Hillsdale, [Mr. Cook.] I concur with him that the State has a right to provide for the repeal of charters; and I am hence opposed to the motion to strike out the section which provides for it.

I do most cordially abhor the doctrine of vested rights, as held by some of our courts. It strikes at the foundation of State rights and State sovereignty. A multitude of corporations, and the State no control over them! However detrimental to the public interests, they must not be touched—their rights are sacred, vested rights. No matter how much evil they may induce—no matter how much mischief may follow in their train, they must continue to all time; their rights are permanent—they are vested rights.

Mr. GOODWIN and Mr. WHIPPLE (at the same time) asked the gentleman from Calhoun what he meant by "vested rights."

Mr. J. D. PIERCE—I will answer the gentlemen. I will give them two examples, which will sufficiently illustrate my meaning. The Dartmouth College case is one. The court held that the royal charter granting certain privileges was of the nature of a contract; and hence, that no legislation could reach it. The other case to which I refer is to be found in the histo-

ry of Canada. In 1763 France ceded her North American provinces to Great Britain. In the treaty it was stipulated that the existing tenure of land should remain inviolate; this tenure was the feudal system. By this means the old feudal system has been perpetuated in Lower Canada to this time. According to the doctrine of vested rights, this system of unmitigated evil can never be reached. No legislation can ever remove it. The system must remain and go down to all time. How absurd the doctrine! A system of unmitigated evils must forever remain, because of some old charter or treaty—some act of some tyrant of bygone time. No relief can be had—all must forever remain as the valley of death. As I said in the beginning, so say I now, that such a doctrine is utterly abhorrent to all my views of right.

Whether the Legislature, as suggested by the gentleman from Hillsdale, has the power and the right to repeal a charter, I shall not now stop to discuss. But of one thing I am certain, this Convention has a perfect right to do it. If so, it has a right to provide for its being done. Deny this right, and the people have no remedy; however inconsistent with the public good; however burdensome and oppressive, and productive of evil corporations may become, they are sacred, they are not to be touched; no remedy is left but the last resort of oppressed people—revolution by physical force.

Mr. WHIPPLE—I am in favor, sir, of striking out the section under consideration. I admit that it is, and will continue to be, a harmless provision, as any attempt to give effect to it by the Legislature would be successfully resisted in the judicial tribunals of the country. They would pronounce a law passed in pursuance of the section before us, a palpable violation of that provision of the Constitution of the United States which prohibits the States from passing any law impairing the obligation of contracts. But, while I admit that the section will be a dead letter in your Constitution, I am not the less opposed to its retention. A vote of this Convention affirming its validity would, in my opinion, reflect dishonor on the State, and argue insensibility to those great principles of right and justice which should be observed with

scrupulous fidelity by every free government in its dealings with its citizens. What power does the provision confer upon the Legislature? Why, sir, it proposes to authorize the Legislature to repeal every act of incorporation heretofore passed; to divest rights secured by compact the most solemn; to trample under foot obligations assumed by the State, and to the faithful observance of which the faith of the people has been pledged through its constitutional representatives. If the Legislature may repeal those acts in 1880, they may be repealed at its next session; and I appeal with confidence to the sense of justice of the members of this body to say whether such an act would not be denounced as flagrantly unjust and oppressive.

But, it is said by the delegate from Calhoun [Mr. J. D. PIERCE] that one Legislature has no right to bind future Legislatures for a longer period than one generation. I did not rise, sir, to discuss theoretical opinions, although the great name of Thomas Jefferson may be invoked in their support, but to speak to a question of great practical importance, vitally affecting the honor of the State and the rights of individuals. I will say, however, to the gentleman from Calhoun, that he will find it a difficult task to vindicate the vote he is about to give, in any opinion ever expressed by Mr. Jefferson. If the public life of that eminent man proves anything, it proves his devotion to the Constitution of his country, and that our safety depends upon a strict adherence to its letter and spirit, and in the faithful observance of the obligations we may have assumed. The honorable delegate has re-produced on this occasion an argument offered some days since, when I proposed to guard by constitutional restriction the vested rights of individuals. I shall not again travel over the ground I then occupied. The question then discussed has no connection with the proposition embodied in the section we are considering. The Convention have decided that such rights may be made the sport of legislative action; to that decision I must submit; but, sir, the question now presented is, whether we shall maintain in all its vigor and purity the Constitution of the United States. To that question I trust gentlemen will address themselves, and not seek to conceal it under the rubbish of other ques-

tions which have received the final action of this body.

I am utterly incapable of comprehending the force of the argument, founded on the idea that we are dealing with corporations. This fact cannot influence the judgment of the Convention, unless, indeed, it be contended that rights secured to our citizens by the Constitution, in their natural capacities, are lost, when the same rights are secured to them by a corporate name. The Constitution, sir, recognizes no such distinction; it is not obnoxious to the criticism which might be justly cast upon it, did it thus discriminate between those who contract with the State in their private capacities, and those who contract in their corporate capacities. Over all lawful contracts the Constitution extends its protection; it interposes a barrier against State aggression, securing to the humblest citizen an easy victory, though engaged in a struggle with a sovereign power.

But, it is suggested by the gentleman from Hillsdale, [Mr. Cook,] that the Supreme Court of the United States will, before the expiration of thirty years, reconsider some of their opinions in respect to corporations; that many of those opinions are erroneous and not justified by a sound exposition of the Constitution. I will not stop, sir, to consider whether the criticism of the delegate from Hillsdale is just or unjust—right or wrong. It is sufficient to say, that any action of this Convention, founded on the supposition that the highest judicial tribunal of this country will modify opinions which have been maintained for a period of forty years, is unwise. Sir, the decisions of that tribunal upon all questions arising under the Constitution, are authoritative and binding, as well upon individuals as States; they constitute a rule of action, and are as conclusive as though they were incorporated in the Constitution itself. But it is said by the delegate from Hillsdale, that he is a republican, and thinks it is anti-republican to withhold from the Legislature the power to repeal acts of incorporation. I, too, profess to be a republican, but I have yet to learn that a republican government has a moral right to violate the Constitution, or perpetrate an act of injustice. Why, sir, if any government on earth is bound to observe the most perfect good faith to-

wards its citizens, and to fulfill with scrupulous fidelity all its engagements, it is a republican government.

Now, sir, permit me, for a moment, to glance at the practical operation of the section proposed to be engrafted in our constitution. It is well known that the State incorporated two companies, and sold to one of them the Central rail road, and to the other the Southern, upon the terms and conditions in the acts of incorporation expressed. The first named company have paid into your treasury the large sum of two millions of dollars, and have in all other respects, I believe, performed each and all of the provisions of the contract entered into with this State. They have incurred the enormous expenditure of the further sum of four millions of dollars in completing and putting into successful operation this great thoroughfare across the State. In consideration of the sum thus paid and expended, the State, on its part, granted to the company certain rights and privileges. There was, then, as between the State and corporators, a solemn agreement entered into, which each of the parties is bound in good faith to fulfill. Will it, Mr. Chairman, be for one moment contended that, in the absence of any breach of the agreement by the corporation, the State may impair rights secured to it by the act through which it claims title to the immense property it acquired and now holds? It cannot be so contended, unless the State is freed from all obligations to respect those obvious and universally acknowledged principles which should regulate the conduct of governments as well as individuals. As well might the State declare the title under which you hold your farm void, or seize and appropriate it to the use of the State without compensation, as to dissolve the corporation, unless authorized to do so in consequence of some act done or omitted, involving a breach of the law which defines its duties, or of the contract under which they claim to hold the property acquired by its terms. Such an act on the part of the State might find its justification under a government whose sway is despotic, but cannot be sustained under a system which promises security to the property of the citizen, and professes to be guided by an enlightened morality.

Again: The section in question is unne-

cessary. If the Convention have the constitutional power to authorize the repeal of the charter, then do the Legislature possess the power, independent of the provision proposed to be engrafted in the article now under consideration. I know of no restrictions upon the law making power, except such as are to be found in the Constitution of the United States or of this State. If, therefore, an act of the Legislature repealing the charter, would not be repugnant to the constitution of the United States or of this State, it would seem to follow that such an act would derive no additional force in consequence of the authority proposed to be conferred upon the Legislature by the Convention. On the contrary, if it be repugnant to the constitution of the United States, then the act of the Legislature would be nugatory and void, notwithstanding it might be founded on an express grant of power found in the constitution of this State. It is said, sir, that the provision can do no harm. This proposition I deny. Its effect will be to impair confidence in the honor of the State, and will drive away from us capital seeking investment in our plank roads and other works of internal improvement. The charters on your statute book calculated to develop the resources of your State, will remain a dead letter; the rights they purport to confer are rendered insecure by constitutional enactments, or are to be left to the tender mercies of State Legislatures.

The people of the State have abundant security for the protection of their rights in that provision of the charter of the Central Rail road, which authorizes its repurchase by the State upon the terms therein prescribed.

In conclusion, sir, I trust that the plighted faith of the State will be preserved inviolate, and that a section will not be incorporated in our constitution, which is in direct conflict with the constitution of the United States, and of a provision in our own constitution which received the united vote of the Convention.

Mr. HANSCOM was desirous of retaining the section as put in by the committee. The gentlemen have assumed that the Legislature of 1880 will go blindfold and tear down and destroy every institution; they would find that both in Europe and in this country changes are going

on. They begin to adopt more liberal rules. I predict (said Mr. H.) that in thirty years the decisions of former courts will be overruled in this State and every other. No State will have its sovereignty forever bound to the Legislature.

Mr. BRITAIN spoke at length in opposition to the motion to strike out.

The committee refused to strike out.

Mr. J. D. PIERCE offered the following to stand as section 11, which was not adopted:

"Whenever damage shall be done by any corporation to private property, such corporation shall be liable to the full amount of such damage."

On motion of Mr. McCLELLAND, the following was inserted after "thereof," in 1st line of section 5: "issued or put in circulation as money."

On motion of Mr. BUSH, the committee rose, and through their chairman reported the article back with sundry amendments, in which they asked the concurrence of the Convention.

On motion of Mr. COOK, the article was laid upon the table and ordered printed.

On motion of Mr. STOREY, the Convention then adjourned.

FRIDAY, (40th day,) July 26.

The Convention met pursuant to adjournment, and was called to order by the PRESIDENT.

Prayer by the Rev. Mr. SANFORD.

PETITIONS.

By Mr. STOREY: of Mrs. Electa M. Sheldon and 157 others, ladies of the village of Jackson, praying for the insertion of a provision in the constitution prohibiting the manufacture, importation and sale of intoxicating liquors to be used as a beverage.

Referred to the select committee upon that subject.

By Mr. HASCALL: of Martin Wilson and 32 others, citizens of Kalamazoo Co., for a like prohibition as the foregoing.

Referred to same committee.

On motion of Mr. J. BARTOW, the Convention then resolved itself into committee of the whole on the general order, Mr. ROBERTS in the chair.

The committee took up for consideration Articles —, "Exemptions and the Rights of Married Women," which were read and passed over, and Article —, "Of Cities and Villages," considered.

Sec. 1. It shall be the duty of the Legislature to provide for the organization of cities and incorporated villages, and to restrict their powers of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments and contracting debts by such corporations.

Mr. WITHERELL moved to amend section 1 by adding the following: "And when the boundaries of any city or village shall be enlarged, the territory annexed shall not be taxed for the payment of pre-existing debts of said city."

Mr. W. proposed the amendment because he considered it just, equitable and right. A city or village should not be permitted to extend its boundaries for the purpose of compelling those living beyond the limits to pay its expenses previously incurred. If they wished to extend their boundaries, it should not be for the purpose of getting money.

Mr. J. BARTOW—The proposition embraced in the amendment of the gentleman [Mr. WITHERELL] was duly considered by the committee reporting this article, and it was thought best not to embody it in the constitution. It may be a proper subject for legislative action; but if placed in the constitution it is fixed and unalterable, and it may not be correct as a general rule. I am, therefore, opposed to the proposition here, as I was before the committee.

Mr. N. PIERCE desired that the gentleman offering the amendment would inform the Convention whether it was not right that a territory enjoying all the benefits and privileges of a city or village, should not be made to bear a portion of the expenses—why not?

Mr. WITHERELL had intended offering another section, so that the inhabitants of the territory proposed to be annexed could not be taxed without their consent. As to the question propounded by the gentleman from Calhoun, [Mr. N. PIERCE,] he would remark that it operated unequally and unjustly. It was often the case that a heavy debt had been incurred, and the on-

ly object of the corporation in extending its limits was to raise money.

He admitted that where the inhabitants of the territory were taken within the boundaries with their own assent, it was proper they should bear a due proportion of the expenses; but otherwise, they should not. He knew of one instance where there was a large territory, with only four or five inhabitants, which a corporation desired to bring within its boundaries, and the only object was to annex territory for the purpose of taxation. He repeated that, without their assent, the inhabitants should not be taxed.

Mr. COMSTOCK—I am in favor of the amendment proposed by the gentleman from Wayne, [Mr. WITHERELL.] I consider it just as the territory proposed to be annexed may have no benefits from the Fire Department, or any other village or city organization; and the territory is only sought to be annexed for the purpose of liquidating debts already contracted, and of which the property has had no benefits. I therefore hope that the amendment will prevail.

Mr. HANSCOM hoped the amendment would not prevail; it was fraught with mischief. Take for instance any city; persons living just over the limits reaped all the advantages, enjoyed all the benefits of those living within the corporation, yet they did not share in any of the city expenses or debts. Now, would it not be unjust to exempt these persons from taxation, if it were proper that the corporate limits should include them? He knew of instances at his village, of persons residing just beyond the village boundaries who enjoyed every advantage of the market, and all other benefits, and yet they bore no portion of the village expenses, when if justice were done, they would bear their proportion. Should the limits of the village be extended so as to include them, the proposition of the gentleman would exempt them from tax, when they had enjoyed the same benefits and privileges of those living in the village. All must see the injustice of it.

Mr. GOODWIN was opposed to the amendment. In cases where improvements in a city or village were rapid, the very debt incurred might have increased the value of the property proposed to be taken in. Suppose a case: A city debt

might have been contracted and the money expended in water works, building school houses, and rendering the fire department more efficient; and by this very expenditure the property laid out in lots be increased ten fold in value. He would ask if it were right or just that this property should be exempt from taxation if it should be taken in the corporate bounds?

Mr. WITHERELL said, even admitting all that the gentleman [Mr. GOODWIN] had based on a supposition, yet he would ask if it were right that the boundaries of a city should be extended to embrace individuals without their consent? Had any one the right to compel them to come in? For instance: Gov. Woodbridge resided near the city of Detroit. He did not ask that the limits of the city should be extended so as to include his property, yet petitions were got up and signed, and sent to the Legislature for the purpose of enlarging the city bounds, so as to include his [Gov. W's] property. He had a farm, and none of the advantages of the city, and asked for none; yet they wanted to make him pay a portion of the city expenses. This was one case only. There was no reason or justice in it.

Mr. COMSTOCK desired to say a word more. He owned a lot of land about half a mile from the village of Adrian, say planted with corn. Now, what advantage would the fire department be to this corn? The fact was, property near the corporation decreased in value instead of increasing. There were two sides to this question.

The amendment was lost.

Mr. WITHERELL moved to amend the same by adding thereto as follows:

"And the boundaries of cities and villages shall not be extended over adjacent territory without the consent of a majority of the owners or occupants of such territory."

Mr. J. BARTOW thought that pertinacity in this project ought not to be insisted in. He was not the gentleman's keeper; but the gentleman should refrain from urging a proposition after it had once been decisively voted down. The principle embraced in the amendment was clearly wrong. Because it met a particular case, that was no reason why it should be adopted in the Constitution as a general rule.

Mr. WITHERELL had always supposed that courtesy, at least, gave to the affirmative of a proposition the right of being heard first; but in this instance it seemed otherwise. The shaft of fate had been launched, and it was doomed—all argument foreclosed by the chairman of the committee reporting the article. He believed that he [Mr. W.] was also a member of that committee. The proposition was not his own; it was the suggestion of his constituents, and he would go for it if every other man in the Convention went against it. He had no interest in the matter, other than to reflect the wishes of those sending him here. Personally, his interests were balanced, and he cared not much about it; but as a matter of principle, founded on right, reason and justice, he would go for it. It was a principle held good as applied to large matters, and why should it not be to small. If farms were brought within city limits, they would be subject to all the police regulations. This, of itself, constituted a strong position in favor of this amendment.

Mr. BACKUS said he could not suppose that the committee would consciously do anything but what was right. It was an established principle that neither counties nor towns could be organized without the consent of the inhabitants living therein. This fixed principle was founded in justice—admitted by all to be so. Now, what were the provisions of this amendment? precisely similar to the principle mentioned. He considered this amendment proper, although the first was, in his opinion, incorrect. The proposition was simply this: persons living just beyond the limits should not be added to the corporation at the mere beck of a city. Such a thing had been done in this State, when the petitioners consisted promiscuously of persons living every where, and the proposition merely guarded against it in future. There had been an application to extend the limits of the city of Detroit, and it was signed entirely by non-residents. Now, he would ask, if it were right, under the circumstances, for the Legislature to grant the extension sought? The truth was, the Legislature was frequently imposed on, and sometimes did injustice from a want of a proper knowledge of the facts.

The proposition of his colleague was

this: that when the limits of a city or village were proposed to be extended, it should not be done without the knowledge, assent and consent of those owning or occupying the territory to be embraced in said limits. He considered it clear and correct. The moment those residing near a city or village found it to be to their interest to become united with a municipality, they would ask it themselves; and until then they should not. They should not be coerced or compelled to do that which was an injury to them. How was it with new counties in their organization? It could not be done unless those interested, living within the county, asked it. How was it with regard to the organization of townships? The same; and on the same principle the proposition was just. It was wrong to force persons within the limits of a corporate city or village on the application of those whose motives were, to say the least, suspicious.

Mr. HANSCOM considered this proposition more objectionable than the first. For the purpose of exemplifying the proposition in its bearings, he would suppose an individual owning land adjoining a city or village. In the course of time it might be necessary to have a portion of this land within the limits; yet the amendment puts in the power of the owner or occupant to dictate and lay down his own terms. Exigencies might arise where the interest of the corporation made it necessary to have some portion of the adjacent territory within its boundaries—absolutely indispensable—yet, by the proposition, the corporation would be at the mercy of the owner or occupier, completely subject to his caprices or obstinacy.

Mr. DESNOYERS moved to add to the amendment as follows: "unless such adjoining territory is laid out in city or village lots."

Mr. D. said there was a great difference in the matter with regard to the condition of the property. If the land were laid out in city or village lots, the amendment was proper.

Mr. CRARY said he hoped that neither the amendment nor the amendment to the amendment would prevail. The amendment to the amendment would not meet the difficulties which surrounded many of our villages where individuals had

sold lots not included in any recorded town plat, and not, in fact, laid out into village lots. Our cities and villages had no analogy to our general municipal organizations. We divided the State into counties and townships for the general purposes of government. Cities and villages constituted an exception to this general division. We did not incorporate a village or a city until the number of inhabitants in any locality became so numerous as to make it necessary to infringe upon personal rights more than was required by the law in township and county organizations. We granted these incorporations to give greater facilities in improving streets, making sidewalks, removing nuisances, and enforcing a more rigid police system. It was oftentimes necessary that the land around cities and villages should be brought within the limits of the corporation without the assent of the people living on it. It was often necessary to do so for the purpose of removing the nuisances that might be created on such lands. Take for example the city of Detroit. Persons living on the line of, but beyond the limits of the city, could establish a market and enjoy all the advantages conferred by such an aggregation of population, without being subject to any of the burthens of a city government. They could create nuisances which might infect the whole city, and their removal would have to be subjected to the slow process of the proceedings in our courts. Such places might never consent to come within the limits of the city, and yet the public good might require their inclusion within the limits of the corporation.

Mr. WITHERELL accepted the amendment of his colleague, [Mr. DESNOYERS.] With regard to the argument of the gentleman from Calhoun, [Mr. CRARY,] it was all wrong—the baseless fabric of a vision. By such reasoning there would be no limit to the boundary of a corporation, except the habitable globe. The gentleman's own village (Marshall) might extend its boundaries to Battle Creek, to Albion, or even to Lake Erie, on the pretence of removing or getting rid of nuisances. A city or village had the power to remove any nuisance; so the argument of the gentleman amounted to nothing.

Mr. BACKUS said the gentleman from Calhoun had based his remarks on the as-

assumption that nuisances might be made near the borders of a corporation; and to get rid of them, it might be necessary to extend the limits. Now, it would readily be seen that if the limits were extended, the same inconveniences might occur on its borders; hence, unless the boundaries were extended so far that the corporation would have control for miles over contiguous territory, nothing could be effected.

In providing for cities and villages, they should be guided by special rules. Take for instance the case alluded to by his friend from Lenawee, [Mr. COMSTOCK.] A man adds to his farm, improves it, and wishes to use it entirely for agricultural purposes. It happens to be situated near a city or village. Now, if he wishes to remain on it, ought he to be compelled to go within the corporate limits or leave, when his farm is actually injured? If property were worth anything, its value consisted in the right of individuals to appropriate it to any use they might wish; unless by so doing they injured a large number of their fellow men. Applications were easily obtained for anything, however monstrous; and he trusted the Convention would act with due caution and deliberation.

Mr. J. BARTOW had only one word to say to all the arguments of the gentlemen. If their arguments showed anything, they showed the necessity of rejecting any principle or proposition based on a particular state of facts. We must deal only in general principles. If we attempted to make provisions applicable to particular localities—to Detroit, Adrian, Coldwater, Marshall, &c., &c., it would lead to insurmountable difficulties.

The question was taken on the amendment as modified, and lost.

Mr. SKINNER moved to insert after "villages," in 2d line, as follows: "extending or diminishing their boundaries, laying out or discontinuing streets and alleys."

Mr. S. said he did not know that the amendment was of any consequence, but it seemed to him necessary. It had been suggested to him that the word "organization" included everything—all that was necessary—but he thought not.

Mr. J. BARTOW was of opinion that the word "organization" comprehended all that was necessary—carried with it all the adjuncts. If he were right in this opinion,

then the additional words were surplusage; if wrong, he was in favor of the amendment.

Mr. CHURCH desired to remark, in reference to this matter, that in the 26th section of the legislative article, after providing that the Legislature should have no power to authorize, by private or special law, the sale or conveyance of any lands or other real estate, &c., there was also this provision: "nor to vacate or alter any road laid out by commissioners of highways, or any street in any incorporated city or village, or in any township plat." This clause was inserted on the motion of the member from Lenawee, [Mr. TIFFANY;] and he regretted that it did not cover more ground. He was opposed to the power being possessed by any other than a judicial tribunal. The rights of parties interested should only be determined by a court in which the parties could appear. The acts of the Legislature had opened the way to much litigation in his village, and he was opposed to granting any such power as the amendment of the member from Washtenaw [Mr. SKINNER] proposed.

The amendment was lost.

Sec. 2. All judicial officers of cities and villages shall be elected at such time and in such manner as the Legislature may direct—all other officers of such cities and villages shall be elected by the electors thereof, or appointed by such authorities thereof as the Legislature shall designate for that purpose.

Mr. DANFORTH moved to strike out section 2; but the committee refused to strike out.

Sec. 3. Private property shall not be taken for improvements in cities and villages without the consent of the owner, unless the compensation therefor shall first be determined by a jury of freeholders of such city or village, and actually paid or tendered in the manner to be provided by law.

Mr. CRARY moved to strike out section 3. By the action of the Convention the day before, it was rendered unnecessary. The 13th section of the article "Corporations" covered the ground, and if the Convention concurred in the amendment made yesterday to that section, this was useless.

Mr. J. BARTOW hoped that a healthy provision would not be stricken out on account of the action of the Convention on some other article. If this section were in its proper place, it certainly should be retained.

The motion to strike out was withdrawn.

Mr. SULLIVAN moved to strike out "of such city or village," from line three of section three.

It appeared to him wrong to confine the jury to the freeholders of the city or village.

Mr. HANSCOM thought the motion correct. The objection was founded in reason.

Mr. J. BARTOW thought the freeholders of the city or village decidedly the most proper men to compose the jury. If the amendment prevailed, you brought in A. B. and C. entirely disinterested; men who had nothing at stake, and they might not do justice. On the other hand, if those interested were made the judges of the matter, they would be much more likely to do what was right.

Mr. SULLIVAN said, if he understood the matter at all, all the jury had to do was to fix the compensation. He certainly thought this should be done by disinterested persons.

Mr. COMSTOCK thought the amendment proper, and hoped it would prevail.

The question was put and the motion lost.

Mr. WITHERELL offered the following to stand as section 4:

"Previous notice of any application for an alteration of the charter of any corporation shall be given in such manner as the Legislature shall by law direct."

Mr. W. proposed to make the provision applicable to all corporations. The Legislature were frequently applied to, to change the charters of corporations, when little or nothing was known of such application or intention, by the people, until after it was done, and the change made; and this was frequently done by being tacked on to bills with different titles. His amendment required that public notice should be given in all cases where a corporation desired an alteration of its charter. He hoped there would be no objection to it.

The amendment was adopted.

On motion of Mr. CRARY, the com-

mittee rose, reported the article back and asked the concurrence of the Convention to the amendment made thereto, and to be discharged from the further consideration of the article.

The question before the Convention being on concurring in the additional section made in committee of the whole, (offered by Mr. WITHERELL,)

Mr. J. BARTOW said, the proposition was so clearly a legislative provision, that it seemed entirely out of place. He thought, therefore, the Convention ought not to concur.

Mr. WITHERELL said he could not agree with the gentleman, notwithstanding he [Mr. J. BARTOW] was chairman of the committee reporting the article. The gentleman wished to keep his three children entirely aloof from any other company, and not to have a fourth, the offspring of the committee, although it was a comely personage, associated with them.

Now, what had the Legislature ever done in reference to carrying out the provision of this amendment? There was a provision of a somewhat similar nature, but all who had been in the Legislature knew that it was seldom carried out. He had not heard any good reason why the section was not proper. It struck him as being an excellent provision, as no change could be made in any corporation unless all knew it in time. He was surprised at the course of the gentleman, [Mr. BARTOW,] endowed, as he was, with so much good sense.

The amendment was concurred in, and the article being before the Convention,

Mr. SKINNER proposed the following substitute for section 1:

"It shall be the duty of the Legislature to provide by general laws for the organization and regulation of cities and villages."

Mr. CRARY said, if the proposition were practicable—if it could be carried out—he would willingly favor its adoption; but he thought it would not answer the purpose intended.

Mr. SKINNER said, a great deal of the time of the Legislature would be taken up in legislating on these matters, if each particular case had to be acted upon; and it had been suggested, he believed, by the gentleman from Kent, [Mr. CHURCH,] that

courts were the proper tribunals in which the most important points relative to the organization and regulation of corporations should be decided. Under this system much time would be saved.

Mr. J. BARTOW asked if gentlemen really thought it possible to make a general law applicable to all the particular cases that must necessarily arise. The wisdom of Minerva and of the gentleman from Kent combined, could not do it.

The substitute was lost.

Mr. FRALICK rose to renew the motion of Mr. SULLIVAN, made in committee of the whole, to amend section 3 by striking out of the second and third lines, the words "of such city or village." As the section stood, the practical working of it in a city might do no harm, but in villages, he thought it might affect seriously the rights of parties.

Mr. J. BARTOW said, the principle was this: we make the very men affected by it establish the rule, and this is what we want.

Mr. FRALICK either did not understand the gentleman, or did not comprehend the question; they did not think alike. The main question was the matter of compensation; that was the point to be decided. Under the section, the men composing the jury would put it as low as possible.

Mr. COMSTOCK hoped the amendment would be adopted. Take, for instance, a public square; every man in a city would be interested in getting it put at the lowest price.

Mr. BACKUS said—Suppose there are twenty debtors, and the Legislature say that twelve of them shall decide the controversy between themselves and their creditors; such a proceeding would be identical with the plan embraced in the section, without the amendment. It would be a proposition applied to private transactions, of at least a peculiar character. In trying matters in court, the parties were always entitled to an impartial jury; and he thought it would be much better to leave this subject to be regulated by the common law.

The amendment was then adopted.

The article was then ordered engrossed for a third reading.

Mr. CRARY said that, on the 20th of

June, a resolution in the following words was offered by himself, viz:

"Resolved, That the article on the judicial department be recommitted to the judiciary committee with instructions that such committee so alter and modify their report as to provide that the judges of the circuit courts shall be judges of the supreme court."

He moved to take up the resolution, together with the article "Judicial Department."

Mr. MOORE said; before the question was taken, he desired to offer a resolution, as follows:

Resolved, That the judiciary committee be instructed to inquire into the expediency of incorporating in the constitution, the following:

"The Legislature shall, as soon as practicable, provide for the appointment of a board of commissioners, whose duty it shall be to revise, reform, simplify and abridge the rules and practice, pleadings, forms and proceedings of the courts of record of this State, and they shall provide for the abolition of the distinct forms of action at law, now in use in civil proceedings, and that justice may be administered in a uniform mode of pleadings, without reference to the distinction now existing between law and equity; and the said commissioners shall from time to time, when required, report their proceedings to the Legislature, subject to the action of that body."

He had not much to say on the resolution, at present. It must be apparent to all, that a great revolution was going on in the public mind, in reference to the proceedings at law, and to meet this change the practice in courts must be much simplified. It was not right that parties should be thrown back in suits by an error, perhaps technical, in the proceedings. An important question was involved in the resolution; he, therefore, moved to refer it to the committee of the whole.

The resolution was so referred.

The motion of Mr. CRARY, to take from the table his resolution, together with the article "Judicial Department," was then carried.

The question pending being the adoption of the resolution,

Mr. CRARY said, the resolution was of-

ferred to test whether the article reported to the Convention was to stand or not. The Convention must decide now, by its action on the resolution, or go into committee on the article and then decide.

After some remarks by various members, as to whether the article or the resolution was first in order before the Convention, the President stated the question to be on the adoption of the resolution. The question being put,

Mr. J. D. PIERCE hoped that some legal gentleman would enlighten them as to the best course to be pursued.

Mr. CRARY had supposed that at least two speeches would be made. He did not intend to speak, himself, but doubtless others would; yet, as so long a time had elapsed since the resolution was introduced, members must have made up their minds as to what course they would pursue.

Mr. MOORE had not made up his mind as to what should be done. He hoped the matter would be discussed.

Mr. WHIPPLE said, by the course pursued, the Convention had involved itself in the difficulty he anticipated. The resolution supposed there were only two systems, and it was very clear the discussion could not be narrowed down to these two systems. Some other proposition might be better. He thought no good would ensue from the discussion of the single proposition embraced in the resolution. The Convention was not full, and it did not follow that it would hereafter adopt anything that was decided by the adoption of a resolution. It appeared to him, although he did not pretend to dictate, that the plan pursued in the New York Convention was the proper one to be pursued here. The resolution before them was narrowed down to one single system; he thought it better that some system should be printed and laid before the Convention. If the discussion should go on, it would be proper that the chairman should give his views. It was not proper to pass on the question without a word of debate. In New York the discussion occupied forty days, and he must say it was a most enlightened debate, evincing much learning and deep research. In the Ohio Convention it had been discussed at length.

Mr. CRARY—The delegate from Ber-

rien, [Mr. WHIPPLE,] seems a little captious because the resolution does not embrace a detailed judicial system. The object of the resolution was simply to obtain a vote of the Convention on a given point—whether they will have the independent supreme court system or the circuit court system. Here is the place to make the decision without waste of time, without any of that vacillation which is often exhibited when the Convention is in committee of the whole. In such committee it seldom happens that all the members vote: in Convention, where the question now is, all may be compelled to vote, and from the vote we shall know which system will be likely to prevail. The resolution is open to amendment. If the gentleman from Berrien or any one else has a system drawn up in detail, he can propose it. The true course is to vote upon the general system and leave the details to the committee, on a recommitment.

Mr. HANSCOM thought there was an obvious propriety in taking up the resolution. It embraced one single, isolated proposition—whether the judges of the circuit courts shall be judges of the supreme court.

He did not consider himself bound to go for all the measures in the article reported, but as far as general principles were involved, he did. Unless the Convention acted on the resolution, they might get into the difficulty which the Ohio Convention met with on this subject.

Mr. CORNELL was in favor of one course—of acting on one question at a time; but was disappointed in regard to this resolution. He had understood there was a division in the committee as to the article reported, and supposed that another report would have been made. This, he supposed, was the reason why action on this subject had been so long delayed. He must say he was disappointed.

Mr. CRARY said at the time he offered the resolution, he did not intend to discuss it; he expected that duty would have been performed by others. By the action of the judiciary committee, and from the opinions expressed by different members of the Convention, he knew there was a diversity of opinion on the judicial system. Some were in favor of the independent supreme court, while others favored a circuit

court, or as it was sometimes called, a *nisi prius* system. The article reported embraced the independent supreme courts system, and the question for consideration was whether the Convention would adopt that system or the circuit court system. If the Convention wished the independent system, they would not recommit; if they preferred the other, they could recommit with instructions. He did not wish to waste time and labor in drawing out a circuit court system, if a majority wanted the other. He believed all had made up their minds on some system, and were as well prepared to vote on it then as at any other time. He favored the circuit system because it made better judges. True, all judges must read the black letter and musty records of the past, and apply the decisions drawn from them to the existing condition of things.

In this country, our judges had often erred in making this application; they did not seem sufficiently to understand the decisions necessary to carry out our institutions, and those necessary for a monarchy. Take for example the grant of a charter. Here it is an infringement of liberty; a restriction upon the rights of the masses. In Great Britain it is an extension of liberty and an enlargement of the privileges of the many, and yet our judges have followed the English decisions almost implicitly on the subject of charters. This had arisen, he believed, from their being so far removed from the action of public opinion. He would have judges go out among the people; he would have them engage in trials on the circuit, where, in listening to the testimony of witnesses and the argument of counsel, they have to become acquainted with all the business relations of society. All branches of business sooner or later become the subject of investigation in our courts, and a judge who has to listen to what is said upon these various branches, by witnesses and by counsel, must almost of necessity become a learned man; at any rate, his intellect must be expanded, his knowledge extended, and his ability to make up a correct judgement in cases that may come before him, vastly increased.

It was undoubtedly the peculiar organization of the courts of Great Britain that had given their judges such high eminence

in their profession. There the *nisi prius* system prevailed. The judge not only sat in *banc*, but went out upon the circuit, where he had, to a certain extent, to mingle with the community and become familiar with their business relations. Such a judge, even with ordinary capacities, must become an enlightened man. It was undoubtedly the system adopted in Great Britain which had given their courts so high a character, and had caused them to be preferred to those of our own country. In our own State we give preference to English decisions over those of any State in the Union.

In support of the position that the discharge of circuit duties made good judges, he referred to the Supreme Court of the United States. There many of the judges when put upon the bench must have been ordinary lawyers, and were men, generally, who had for a long time been engaged in politics, and out of the practice of the law; and yet these judges soon learned their duties, and soon commanded the respect of the country; for he believed that that court still held the respect of the country. Each judge discharged circuit duties, went from State to State to attend circuit courts, and thus became familiar with different State laws and practices, and was compelled to listen to the ablest and most talented men of his section of the country. A man thus situated must not only learn the law, but how to apply it to the existing relations of society.

He was aware that there was necessity for a circuit system in the United States which did not apply in this State. The judges of the United States must become familiar with the laws of the different States; but here we have the same law applicable over the whole State. He was aware of the difficulty of carrying out a circuit system over so large an extent of territory, and have the judges also discharge supreme court duties. It was his opinion that two terms a year of the Supreme Court was sufficient. With two terms of that court, some eight or nine judges—the number he supposed we would be compelled to have—could discharge all the duties on the circuits throughout the State. He wanted a plain, simple, economical system; one that would make good judges—a court whose decisions would

have the respect and confidence of the people.

The question having been again put,

Mr. BRITAIN said, if the vote about to be taken was to decide the system to be adopted by the Convention, he thought it should be argued then.

Mr. HANSCOM considered the vote about to be taken a test between the two systems, and if gentlemen were disposed to discuss the matter, he was willing to give his opinions. On this question he agreed with his constituents, and should adhere to their wishes. The gentleman from Calhoun [Mr. CRARY] had assumed that, by the independent system, we could not have as good judges as by the circuit system. This was an assumption that the judges chosen to sit on the supreme bench would be without training, and the qualifications necessary for a proper discharge of their duties; which, in the opinion of the gentleman, can only be attained by experience on the circuit court bench. Now, what did the system reported—the independent supreme court—propose? The article provided that the judges of the supreme court shall hold terms annually, in each judicial circuit; and by this provision they gained every advantage and enjoyed every benefit the gentleman imagined to be had only in the circuit system. He was clearly of opinion that our court of last resort should be independent; removed from, and disconnected with our circuit courts. There was an impression among the people that, under the present system, inducements influencing the lower courts, entered into the supreme court, and gave undue influence to its decisions. This, if true, was a serious objection to the circuit court system. Another objection was, that the circuit court system would be hindered in the discharge of circuit court duties, and consequently, business in the several districts much delayed. Take, for instance, a circuit court in session in any district; the court may be dismissed by the judge, for him to sit on the supreme bench, and *vice versa*. There were many other objections that might be urged against the circuit system, and much said in favor of the other; but, until he knew whether the subject was to be discussed at length, he would not trespass on the Convention.

Mr. J. BARTOW was in favor of the re-

solution, but opposed to making it a test. It could not be so considered. If adopted, the Convention would be ready to hear any other system discussed.

Mr. CORNELL said he must again express his disappointment at the course that had been pursued. Why had there been so long a delay by the Convention in this matter to this late day?

Mr. CRARY, (in his seat.)—The Convention has put it off, and we cannot reflect on its course.

Mr. CORNELL supposed not. He regretted it had been done, and would be glad to hear why. He supposed it was to give time for another report to be brought in.

Mr. BUTTERFIELD said the reason why another system had not been prepared and reported, was because it was thought best to introduce the resolution at the time the article was reported to the Convention, and make it the test question on the two systems. It was then expected that the resolution would be discussed at an early day, and they thought it proper to await the action of the Convention on it before perfecting another system, as it was doubtful whether it would be adopted or rejected. He regretted that action had been so long delayed, or that a different course had not been adopted. Although not a lawyer, he had reasons that governed him as to the vote he should give, and that induced him to favor the resolution. He had hoped that those more capable would have argued the matter in all its bearings; but at this late day, if discussion were only to cause delay without changing the result, it might perhaps be better to vote at once. His mind was fully made up, if the subject should be discussed a week; and he presumed others were in the same situation. The committee reporting the article stood ten to nine.

Mr. CHURCH did not think the gentleman from Genesee [Mr. J. BARROW] would intentionally give a false impression as to the intention designed by the friends of the resolution. It was offered as a test between the two systems, and manfully so stated by the gentleman from Jackson, [Mr. BUTTERFIELD.] If the resolution were adopted, it would not bring up any other system than that embraced by it.

Mr. J. BARTOW denied the conclusions of the member from Kent, and objected

to the gentleman [Mr. BUTTERFIELD] coming and taking the Convention by storm, and saying the minds of members were made up, and they were all committed.

After a few remarks by Mr. BACKUS, the Convention adjourned.

Afternoon Session.

The Convention was called to order by the PRESIDENT, and resumed the consideration of the resolution [Mr. CARY'S] pending at the time of adjourning.

Mr. McCLELLAND said, perhaps it would have been well to have taken the vote on the resolution at the time it was introduced, when it could have been argued fully; but the time had passed when all the systems could be discussed in Convention without great delay. He liked the suggestion of some gentleman, that all the plans should be introduced at once; their merits compared and discussed fully; and to carry out the idea, he moved to amend the resolution by striking out all after "instructions," and inserting as follows: "to report also, as soon as practicable, a plan for a supreme court, the judges thereof to perform circuit duties."

Mr. CHURCH would inquire of the gentleman why the resolution should contain a recommitment of the article reported?

Mr. McCLELLAND—That is not my object at all.

Mr. CHURCH said he was about preparing a resolution having the same object in view, without a recommitment of the article before the Convention.

(Mr. C. here read a resolution, which was not obtained by the Reporter.)

Mr. HANSCOM hoped the gentleman from Monroe would accept the modification. There was no use or necessity for a recommitment.

Mr. McCLELLAND said he was acting in good faith. Nothing would be done with the article before the Convention, should his amendment prevail.

Mr. N. PIERCE said the article ought to be recommitted, as they could not act on it until the other was reported.

Mr. BRITAIN thought if the gentleman from Kent [Mr. CHURCH] would reflect a little, he would see that parliamentary courtesy required a recommitment of the ar-

ticle if the resolution were adopted. Unless it be recommitted, the Convention could take it up and act on it before the other article was reported.

Mr. HANSCOM said the proposition was a mere species of tactics resorted to by minorities to avoid coming to a direct vote. The proposition of the member from Calhoun was an entirely different matter; it brought them to a direct vote on the two systems; and he would submit if a direct vote should not be had. Without the proposition of the member from Monroe, any member of the committee had a perfect right to report an article different from that brought in. He was opposed to any system of tactics being introduced here. It would lead to difficulty.

Mr. CARY then withdrew his resolution, and on his motion the article entitled "Judicial Department" was referred to the committee of the whole and placed on the general order.

Mr. WITHERELL moved that the Convention resolve itself into committee of the whole on the article entitled "Exemptions and the Rights of Married Women," but withdrew his motion.

On motion of Mr. J. BARTOW, the Convention resolved itself into committee of the whole on the general order, Mr. BUSH in the chair, and took up for consideration "Article —, Finance and Taxation."

Sec. 1. 1st. All specific taxes shall be applied in paying the interest of the University and primary school funds, in defraying the current expenses of the State, and in paying the interest of the State debt, in the order herein recited.

2d. The Legislature shall provide for an annual tax, sufficient, with other resources of the State, to pay the estimated expenses of the State, and the interest of the State debt.

3d. The Legislature shall also, by taxes, supply any deficiency which may occur in the resources of the State.

Mr. BRITAIN said, since the submission of the report, the Convention had made an important provision in the article on education, making a two mill tax appropriation for educational purposes. He, therefore, moved to strike out the words "in defraying the current expenses of the State," and insert "balance of the," be-

fore "State," where it last occurs. Which motion prevailed.

On motion of Mr. CRARY, the words "and other educational," were inserted between "school" and "funds," in line two.

Mr. ROBERTS moved to insert after the word "taxes," in first line, "except on charters organizing the mining companies in the upper peninsula." Lost.

Mr. J. BARTOW moved to strike out the words "in the order herein recited." His object was to place all on an equal footing.

Mr. BRITAIN hoped the motion would not prevail. If any discrimination were proper, the plan reported he thought preferable to any other.

Mr. J. BARTOW said if any discrimination were made at all, it should be in favor of the public creditors, on the same principle that a man should pay his debts before building a house. We should discriminate in favor of justice. He was of opinion that the specific tax should go with the general fund.

Mr. WITHERELL agreed with the gentlemen from Berrien, [Mr. BRITAIN.] The specific tax should be appropriated to the purposes named.

The amendment was lost.

Mr. WITHERELL offered the following, to come in at the end of the third line: "After the payment of the State debt, except the debt due to the educational fund, the said taxes shall be applied exclusively to the purposes of education."

Mr. J. D. PIERCE moved to strike out "purposes of education," and insert "support of primary schools."

Mr. WHIPPLE hoped the Convention would leave it to the Legislature. We were going too much into detail.

Mr. J. D. PIERCE withdrew his amendment.

Mr. FRALICK hoped the amendment of his colleague would not prevail. It would be perhaps twenty-five or thirty years before the State debt would be paid, and it was too far off to make any calculations as to what should be done after that time.

The amendment was adopted.

Mr. ROBERTS moved to amend section 1 by inserting after "paying," in the first line, the words "the expense of the gov-

ernmental and judicial policy of the upper peninsula."

After some remarks by Mr. R., explaining the situation of the upper peninsula,

Mr. WITHERELL offered the following as a substitute for the amendment, which was accepted by Mr. ROBERTS and adopted by the committee:

Add at the end of first subdivision of section 1, as follows: "The foregoing provisions shall not apply to specific taxes on the upper peninsula."

Mr. VAN VALKENBURGH moved to add at the end of the 2nd subdivision:

"And also the necessary amount including the fund appropriated to support the free schools established by this constitution."

But the committee refused to so amend.

Sec. 2. 1st. The Legislature, in addition to the above named taxes, shall provide by law for a sinking fund, of at least twenty thousand dollars a year, to commence in eighteen hundred and fifty-one, with compound interest at six per cent. per annum, and an annual increase of at least five per cent.

2d. Said sinking fund shall be applied solely to the payment and extinguishment of the principal of the State debt, other than the amounts due to the university and primary school funds, and said tax shall be continued so long as shall be necessary to secure the extinguishment of the existing funded and fundable debt.

3d. Said fundable debt may only be funded or redeemed at a value not exceeding that established by law in eighteen hundred and forty-eight.

Mr. EDMUNDS moved to strike out "one" after "fifty," and insert "five."

Mr. BRITAIN said it was an important question whether we should commence now or in 1855, to extinguish the State debt. The credit and honor of the State depended upon it, and it was certainly preferable to begin as soon as possible.

Mr. EDMUNDS said, it seemed to him that after the long session of the last Legislature, and taking into consideration the expense of the Convention and the next session of the Legislature, the time proposed in the article to commence levying a tax for the sinking fund was too early. This was his only objection.

Mr. BRITAIN suggested that a tax pro-

vided for in '51 would not be collected until '52.

Mr. CORNELL said it was a settled principle, that the sooner out of debt the better. People complained of the county and township taxes, but not of the State tax.

The amendment was lost.

Mr. ROBERTSON moved to strike out "with compound interest at six per cent. per annum;" but after an explanation by Mr. BRITAIN, withdrew his motion.

Mr. WHIPPLE said he was opposed to the motion of the member from Washtenaw, [Mr. EDMUNDS,] because the time to commence the sinking fund was put off too long; yet he thought '51 too early, and therefore moved to strike out "one" and insert "three."

Mr. BRITAIN still thought '51 the best time to commence. The specific taxes would come in then, and there could be no more appropriate time.

Mr. WHIPPLE was willing the tax should commence as early as practicable; but we must recollect that although these taxes would come in then, the increase in other expenses would follow in proportion.

The amendment was carried.

Sections 4, 5, 6, 7, 8 and 9 were severally read.

Mr. FRALICK moved to strike out section 9.

Mr. F. said the State might hereafter become interested in the Central rail road. It had the right to re-purchase the road, and it might be expedient to retain it.

The motion was negatived.

Section 10 was read.

Mr. COOK moved to strike it out; but at the request of Mr. BRITAIN withdrew the motion.

Sec. 11. The Legislature shall provide a uniform rule of taxation, except upon property paying specific taxes; and taxes shall be levied upon such property as the Legislature shall prescribe.

Mr. ROBERTSON moved to strike out the words "and taxes shall be levied upon such property as the Legislature shall prescribe."

Mr. R. made the motion because he did not fully understand the terms used. It brought to his mind certain laws by which property was exempted from sale. Was this property to be exempted from taxation?

Mr. BRITAIN said if the words were stricken out the matter would be left in the same situation still. It was thought best by the committee to insert them—leaving it to the Legislature entirely to prescribe on what property taxes should be levied.

The amendment was lost.

Section 12 was read and passed without amendment.

Sec. 13. The Legislature shall provide by law for an equalization of assessments upon all taxable property, except that paying specific taxes, by a State board, in eighteen hundred and fifty-one, and on every fifth year thereafter.

Mr. W. ADAMS moved to strike out "shall," in first line, and insert "may." The motion was lost.

Mr. COOK moved to strike out "by a State board."

Mr. C. said it would then be left to the Legislature to equalize as they thought best.

Mr. BRITAIN had no objection, if some other mode of equalization could be decided on. The property in the State was estimated now far below its value, and this was the reason why the per cent. appeared large. This had a bad effect abroad. If it were assessed at its cash value, the per cent. would be very small in comparison with many other States. It was returned last year at \$29,000,000; when, had it been assessed at the cash value, it would be \$100,000,000.

The motion was lost.

Section 14 was read and no amendment made.

Mr. BUTTERFIELD offered the following, to stand as

"Sec. 15. The Legislature shall provide by law for the final collection of all taxes within the several townships."

Mr. B. sent up the amendment, as he saw no provision in the article to change the present mode of collecting taxes; and under the present system he thought there was a vast amount of machinery that could be dispensed with. It was his opinion that the section proposed would operate beneficially, and it might, perhaps, be extended to counties. There was a manifest impropriety in the present unequal mode of collecting taxes; for every one must see the advantage the non-resident had over the resident. This certain-

ly ought not to be so. In some respects they were on the same footing; but in others, not. He could see no reason why land should not be sold when taxes were not paid, as well as other property.

Mr. WHITE moved to add to said proposed section, the following: "at the same time and in the same manner."

Mr. CHURCH said the member from Jackson [Mr. BUTTERFIELD] seemed to think there was no objection to the proposed new section; it would be ruinous to the new counties.

Mr. WHITE would be glad to know how the new counties would be injured? He lived in a new county.

Mr. CRARY was in favor of the proposition, and saw not the least difficulty in carrying out the measure. It only proposed to authorize the collector to go on and close up matters in his township. It was a fact that non-residents paid their taxes as they thought proper. Their lands were first returned to the county treasurer, then sent to the Auditor General, where they laid over a year or two, and then sent back to the counties to be there disposed of. If confidence were placed in the county treasurer, what objection could there be against his closing up this business in the county? If the town treasurer were competent to collect resident taxes, he was equally competent to collect non-resident; if competent to sell a horse, he was competent to sell land, &c. We were required by Congress to put non-residents on an equal footing with residents; but instead of doing this, we discriminated in favor of the former.

He was aware there would be objections to the proposition; he had heard them repeatedly before. The advocates of the present system say the lists should be sent to the Auditor General for his inspection, that errors may be corrected. How could he do this? In every list returned there were many wrong descriptions—hundreds of them—which he could not correct, and so the matter was not made better, even after his inspection. By adopting the proposition of the gentleman from Jackson, it would save thousands of dollars to the State, and the system was only liable to a few errors, which might be easily corrected by the Auditor General. If the Convention desired to give five, eight or ten years

for redemption, they should do it; but if they preferred to have the business of the State done at the proper time, and save an expense of thousands of dollars, they should adopt the proposition. How was the business, at present, done in villages? The lists were put in the hands of the marshals, who went on and closed up the matter; and this could be as easily and as well done in the different towns, for all the wisdom was not concentrated in villages. It had been said that a title from the Auditor General was preferred; but he would ask if a title from a village was not considered equally good? He considered the system proposed far preferable to the present one.

Mr. HANSCOM perhaps did not understand the proposition, but it seemed to him impracticable. He looked on these strained efforts at getting specific provisions incorporated in the constitution as improper and entirely wrong; he should not be surprised to hear a proposition to make every man deposit his own taxes with some officer. It all sounded very well and read well, but he had heard nothing to convince him of the propriety of placing such a provision in the constitution. It might operate very well in the old counties, yet he was confident it would prove disastrous to the new. The matter should be left to the Legislature. It had been a source of contention for fifteen years, and it seemed impracticable to be tied down to any one system.

Mr. BUTTERFIELD regretted that the member from Kent, [Mr. CHURCH,] had gone no further than barely to announce that the proposition, if carried out, would be disastrous to new counties, and he begged leave to dissent with his statement.

The argument of the gentleman from Oakland, [Mr. HANSCOM,] proved that something specific should be placed in the constitution. The laws were constantly changing, and hence the very difficulty of which he complained. All that the people know of the tax laws is that non-residents are the more favored. He believed the people would prefer a bad law to one continually changing.

On motion, the committee rose and obtained leave to sit again.

The Convention then adjourned.

SATURDAY, (41st day,) July 27.

The Convention met pursuant to adjournment and was called to order by the PRESIDENT.

Prayer by the Rev. Mr. TOOKER.

PETITIONS.

By Mr. WHITTEMORE: four several petitions of the ladies of Pontiac, praying the incorporation of a provision in the constitution, prohibiting the manufacture and sale of alcoholic drinks as a beverage.

Referred to the select committee upon the subject.

By Mr. CHURCH: two several petitions of citizens of Kent county, that a clause may be inserted in the new constitution, prohibiting the employment of convicts in the State Prison in those branches of mechanical industry which interfere with those of our own citizens.

Referred to the committee on miscellaneous provisions.

RESOLUTIONS.

On motion of Mr. RIX ROBINSON,

Resolved, That the committee on the judiciary be instructed to inquire into the expediency of inserting a clause in the constitution prohibiting the enforcing by law the payment of any debts on contracts express or implied, of a less amount than twenty-five dollars; and that they report thereon as soon as practicable.

On motion of Mr. J. BARTOW, the Convention was resolved into a committee of the whole on the article entitled "Finance and Taxation," Mr. MASON in the chair.

The question being upon Mr. WHITE's amendment to Mr. BUTTERFIELD'S proposed new section,

Mr. WHITE said—I hope that the amendment will prevail. The committee must see, I think, by looking at the proposition of the gentleman from Jackson, that it will place the tax papers on an equal and proper footing. It is plain and simple in its provisions—requiring that the taxes to be levied and collected for the support of your government shall be uniform—that is, collected at the same time, in the same manner, and in the respective towns.

Every gentleman on this floor must be aware that the present system of taxation does not operate equally—that in certain circumstances, in fact in very many cases,

it operates oppressively on the tax payers. The amendment proposed is intended to do away with the inequality, the oppressive working of your system. It will be unnecessary for me to go into an investigation of this matter, because all are tax payers; and it is to be presumed all are familiar with the present system, and its operation.

In order to test the utility of the proposition now under consideration, it will only be necessary to look at the relation which the tax payer sustains to the State. That relation is simply that of debtor and creditor—every tax payer being a debtor to the State, and he sustaining that relation until his quota of tax is paid into the hands of the collector, and the tax cancelled. It is therefore for the interest of both parties that the debt or tax should be collected in a direct, simple mode, and in the cheapest way possible. This relation of debtor and creditor existing, as regards all tax payers, is it but just and proper that the resident and non-resident should be placed on the same footing; and when you require one to pay, then can there be injustice in requiring the latter at the same time to pay the tax levied on his property within your borders?

Under the present system, the resident has to pay his tax when called upon by the collector, and it is just and right that he should do so. But the non-resident is required to do no such thing—he is a privileged person, and walks abroad unconcerned about the payment of his taxes—that is an after-thought which does not trouble him. He lets his taxes run on for years, with interest and charges accruing, till at last he discovers some informality, when the tax is rejected by your Auditor General, and charged back as an item of contingent expense upon the town in which it was levied. And here the resident has again to be taxed to meet this delinquent non-resident portion of rejected tax, notwithstanding he has discharged the duty of a good citizen, once paying the quota assigned him for the support of government.

In this way the system works oppressively. The people have felt it, and do feel sensibly its operation; and they call for a change—they demand it. This they require at our hands; and the reason is, be-

cause for the last ten years the people have repeatedly called for a change in your tax system at the hands of the Legislature, and their calls have been unheeded.

Mr. Chairman, this proposition as amended can certainly work no injury; it is only intended to meet and correct the evils and abuses complained of by the resident tax payer, and should be adopted. The whole subject is left to be regulated and carried out by the Legislature, and will insure to the people uniformity in levying and collecting taxes—nothing more. It has been said by gentlemen on this floor that the people in the new towns are not competent to carry out the detail of levying and the collection of taxes—that there now are, and must continue to be, so many irregularities creeping into your assessment rolls, that it not only does, but will for years to come, require a supervisory central power to correct them, in order to carry out successfully any tax system that may be proposed, in the present condition of this State. Now, what are the facts in regard to the competency of the people of the new towns in levying and collecting taxes? Under your present law your supervisor is your assessor, and on him devolves the duty of preparing the assessment roll—fixing the value of the property taxed—apportioning the quota of tax to be levied to each individual, with his warrant for collection attached. The entire tax roll is thus made and perfected in the hands of your supervisors, as completely as the law can define it; and when thus made, it passes from the hand of the supervisor into that of the collector, who collects the resident tax.

Here is your tax roll, warrant, all that the law requires to be done in the premises, for the collection of the resident tax, made and perfected by the people of the towns; and yet, it is contended they are not competent to carry out the detail of collecting the non-resident tax. Such arguments, to say the least, are doing injustice to the ability and intelligence of the people of the new towns. What we complain of is that the non-resident is not required to pay his tax at the same time and in the same manner that the resident is required to pay his. We propose to place them on the same footing; and if in either case the tax be not paid, let the collection of it be put

on the same basis. Let the debt or tax be made on the same principle that you now collect a debt as between individuals—through the instrumentality of an execution—and close up at once each year's tax list in the towns.

And why, let me ask, is not the collector who has the tax rolls as competent to make the tax of the non-resident by levy and sale of his property, as he is that of the resident? Both classes of tax payers are embraced in the same roll, with a description of their real estate. The tax of one is as just, and as much due the State, as the other; and the law controlling the right of property has made the tax a lien on the real property taxed. Why this lien, and so long delay in making the tax on the property of the non-resident? It is to give him time to pay, if he will—to return his lands to your Auditor General for his inspection and correction; and if found informal, although the tax is just, it is rejected and thrown back on the resident, as a penalty for his inability to comply with your complicated tax system.

Your present system is altogether too complicated and expensive; and I am led to believe that many of the irregularities and rejections grow out of transcribing the assessment roll, in making returns, and by its passing through so many different hands. It is all wrong, and works a direct injury to the resident.

Another objection which has been raised to closing up the taxes in towns is, that the title to land sold for taxes by your collector will not be good, and hence there will be few buyers of tax lands. I would ask gentlemen if the transfer of title in such cases is not the work of the law? And cannot a town officer fill up a blank deed as evidence of conveyance as well as your State officer?

But, let us look at the title coming from your Auditor General under the present system. Within the last ten days, where property was sold for taxes, title given, after passing through the hands and scrutiny of your Auditor General, facts were brought to his notice, that the tax was irregular, and thereupon he issued his certificate, invalidating his deed of conveyance. This is not a single instance, but the occurrence is so frequent that the people have very little or no confidence in these tax titles;

and the reason is obvious; for, if an individual does purchase for agricultural purposes, he not only runs a great risk of losing the land, but all the labor and expense he may bestow in improving it. Your tax titles therefore are now worthless, or nearly so, from their uncertainty, growing out of the complexity of your present tax law. There is no subject on which we are called to act in which the interest of the whole people is more directly involved, than in this of finance and taxation. And, Mr. Chairman, permit me to say that it has been the means of as mighty revolutions in the political world as any other subject; and I have only to refer to the early history of our own country for an illustrious example, which cost the British crown her North American colonies.

It will be seen by the Auditor General's report to the Legislature of 1849, that the non-resident taxable property of this State amounts to little over one-fifth part of the entire valuation of taxable property, real and personal; the evil, therefore, is one of magnitude, and calls for a speedy correction. And I am fully persuaded in my own mind that the present onerous tax system will not be borne much longer by the people; and if attempted to be continued, they will cause a revolution to be felt that will completely overthrow it.

It has been remarked by a celebrated author on political science, that the towns spread out all over our country were so many little republics, containing each within itself the elements of a perfect democracy. There it is, sir, we must look for the beauty and perfection of our system of government; and hence, from these pure fountains of political power will spring reform; and there we must bend our ear to catch the cry—"look not to your central power for reform." Place power in the hands of one man, or in the few, and it is liable to abuse. In time it will be abused; it ever has been the case; it is so now; and the very object of this Convention is to reform the evils and abuses that have fastened on the body politic by improvident legislation.

I hope that this Convention will look at this subject in all its bearings; that it may be fully discussed, and the rights and interests of the people sustained.

Mr. BUSH—I am opposed to the amend-

ment of the gentleman from Jackson; I consider it impracticable. It provides that all taxes, resident and non-resident, shall be collected by the township treasurer during the life of his warrant. This sounds very well—his arguments sound very well. It certainly is no more than reasonable that tax payers should all enjoy equal privileges. He tells us that the property of the resident, if he neglects to pay his taxes, must be sold forthwith under the hammer, to the highest bidder; that the land of the non-resident is no more sacred, and should be disposed of in the same summary manner.

I had not intended to speak upon this subject, supposing the impracticability of the proposition would be so apparent that no one would seriously advocate it; but, sir, I have been mistaken. The gentleman from Lapeer, [Mr. WHITE,] the gentleman from Calhoun, [Mr. CRARY,] and other gentlemen support it with eloquence and apparent zeal; they call upon me to come up to the rescue as one who has heretofore favored this project, and give them my aid or define my position. In defining my position it will become necessary for me to take a retrospective view of our tax laws; and other laws bearing upon this subject. The State government was organized in 1835;—the statute of 1833 was in force. The tax system of that territorial law was well adapted to the condition of our territory.

The gentleman from Lapeer [Mr. WHITE] tells us that each town is a little sovereignty, and has the undoubted right of closing up the tax roll. In our territorial condition, the United States paid our Governor, Judges, Council, and other territorial expenses; county and township government expenses were paid by direct taxes, as all our government expenses are under the State constitution. Taxes were levied then to pay township and county expenses. The town collector paid over to the town treasurer the money raised for township purposes, and next he paid over the money raised for county purposes to the county treasurer. In case of not being able to raise the money, he returned the non-resident land to the county treasurer, to be disposed of by him to raise the amount of the taxes. This law answered the end for which it was en-

acted, but it was soon found to be inadequate to the necessities of a State government; there was a vast quantity of non-resident land in every county of the State; in many of the counties resident taxes did not even pay township expenses, much less county; and not one cent towards the expenses of the State government. The general fund of the State was obliged to borrow money to pay the current expenses of the government. This statute continued until the 30th of August, 1838, when the revised Statutes of that year came in force. The tax law contained in the revised statutes was framed with reference to the necessities of a new and sparsely settled country. It provided that the township collector should collect the tax; that the first money collected should be retained for township purposes; the next, county purposes; last, State purposes; but, in case of not raising the money, the town collector returned his roll to the county treasurer; the county treasurer to the Auditor General. He was required to issue bonds bearing interest, to the full amount of all the non-resident taxes returned to his office, and to dispose of those bonds for cash, and immediately thereafter pay over to the respective counties their proportion of the money due for non-resident taxes, retaining in all cases the State tax due from said county. The taxes upon which those bonds were issued, when collected, were to pay or redeem the bonds. This system was well received by the people, as one that would be efficient. The Legislature of 1839 arranged the law properly. They likewise remitted the State tax due from some of the sparsely settled counties that had accumulated against them under the operation of the statute of 1833, and no disposition was manifested to interfere with the tax law; but a crisis was at hand—the paper bubble, upon which we rolled into existence as a State, had exploded. The community without stopping to inquire into the cause of the difficulty, began at once to cry—reform—change—ruin, &c. It had its effect. The next Legislature that convened, to wit, in 1840, were reformers. Mad with power, and elated with their brilliant political prospects, they went to work in good earnest, not directly at the tax law, but with the banks, to make money plenty by law; this they accomplished; but in

making it plenty, it was furnished so cheap that non-resident land holders bought it at a great discount, and paid it into the State treasury at par. Until the Bank of Michigan and the State treasury could be separated, they were one and indivisible; and the best funds that could be obtained from either were irredeemable promises.

This was not sufficient; the public pulse, though gradually yielding, beat high; the glorious mission of reform had not yet fulfilled its destiny, and was extended by the election of the Legislature of 1841. This illustrious body of men, to show themselves superior to their predecessors, not only continued the bank suspensions, thus making bank paper still cheaper, but obtained plates at a large public expense, and issued State Scrip, or bills of credit; this Scrip was issued for the benefit of the internal improvement fund; but to give this cheap reform currency character, it was made receivable for taxes and all public dues. It has been well said, sir, that effects always follow causes; the effect produced in this case was terrible to the new portion of the State. The Legislature of 1840 defeated the object contemplated in the tax law of 1838, by receiving a cheap paper currency for the very tax upon which the bonds were issued, so that bonds would not sell; and the towns and counties were compelled to receive them. The Legislature of 1841 capped the climax; they issued the scrip to build railroads; it was received for taxes levied for the support of the poor, to build school-houses, to pay the township and county expenses. The locusts of Egypt were no more desolating to vegetation than this scrip was to the towns and counties. The tax bonds which they held as the representative of the tax, having lost its base, depreciated more than fifty per cent. Then, sir, this change in the tax system was demanded by the people. One voice was heard from the whole interior of the State in favor of a change. I was one of the representatives of the people of a neighboring county, and struggled hard to bring about a change.

The gentleman from Lapeer has asked me when I changed my opinion upon this subject. I will tell him. Sir, it was when the law was administered and not perverted—it was when certain necessary amendments were made,—one permitting taxes to

be paid or redeemed in the counties, or at the State Treasurer's office, as best suited the convenience of the person wishing to pay. To be brief, sir, it was when, from experience, I had become satisfied that no more frauds would be practiced, or laws perverting taxes would be passed. No general complaint was ever made against our present system. Amendments have been made, as experience showed their necessity, until it works remarkably well, and every department of the government is protected. The townships first have the rolls, and thus have the means in their own hands of collecting and retaining the township taxes; next the county is entitled to its own proper taxes; lastly the State tax is paid, and in most of the counties it is entirely paid with non-resident land returned. Thus, township, county and State, all in turn, have what belongs to them. The State and county each collect taxes and compare monthly, and pay over the balance as it may be due. The tax that remains unpaid two years is collected by the Auditor General by selling the lands. The entire expense falls upon the delinquents, and is not, as has been stated, an expense to the State; being under the control of one head, one uniform system prevails.

The gentleman from Lapeer complains that, where mistakes are manifest, the Auditor General cancels the sale, causing inconvenience and expense. Is the gentleman opposed to this provision? Would he prefer a suit in ejectment where there is a positive error, or would he permit some eight or ten hundred men to have the cancelling power? If that is an evil now, it would be infinitely increased in either case. The gentleman from Calhoun insists that the collector of the township should in all cases collect, during the life of his warrant, all the taxes assessed in said township, both resident and non-resident. This might possibly be done in some few of the older and well settled counties; but in most parts of the State it would be impossible. Land could not be sold for money, and if bid in by the town, would very soon bankrupt said town. Gentlemen inform us that, under the Auditor General's system, there is but very little confidence in tax titles. If this be true, when the whole system is under the supervision of one competent head,

adopt the township system, and you could not collect revenue sufficient to support the government. Confidence in tax titles would be entirely lost. We have been in the habit of trying experiments in this State, until legislation has justly fallen into disrepute, and this Convention has been called to limit the legislative power; but, was it expected that this Convention would run into the same error? I ask the gentleman from Calhoun.

Just before the election of delegates, I saw a very sensible article in a Calhoun county paper; I thought, perhaps, it was from the able pen of that gentleman. It was relative to the duty of the Convention. It declared that the duties of the delegates could be closed up in four weeks; that a general revision of the constitution was not contemplated; that public sentiment had clearly pointed to a few amendments which should be made promptly and submitted; that the main features of the present constitution were satisfactory.

But what has been our action? Every article has been materially changed—not only in principle, but we have gone into detail upon almost every subject, virtually doing up the legislation for the country for the next fifteen or twenty years. Not content to establish the great outlines of government, and define principles and powers, we have anticipated the necessities of the State in its future development, and prepared in our constitution a code of laws, with as much coolness as a legislative body would manifest in passing an appropriation bill to pay the ordinary expenses of the government for a single year. I warn gentlemen against this dangerous system of tying down everything in the constitution. We are not skilled in prophetic vision, and may be mistaken. Laws well adapted to older States do not always answer here. We once had a general banking law. It proved a failure; its odium is not yet wiped out. Now, sir, I contend that that banking law in New York or New England would have answered as well as their present systems. In New York they bank upon the debts they owe. That system is popular here; but compare it with the general banking law of Michigan, which proved a failure, and it sinks into insignificance. Our law was based upon specie and real estate—theirs is based up-

on indebtedness; theirs works well—ours was worthless. This grows out of the different conditions of the States. Here land has no real marketable value, and cannot at all times be exchanged for cash; there it can be; and the banking law of Michigan would practically work well there, while here it proved impracticable. So it is with a tax law. Then why incorporate it in the constitution? Why not leave it with the Legislature? If they continue to try experiments, they can retract; but, if we experiment in the constitution, we stamp an injury upon the country that cannot conveniently be erased.

I enter my solemn protest against this species of constitutional legislation, and predict that those who shall be called to act under this constitution, unless we, to a certain extent, retrace our steps, will pronounce their anathemas upon our folly.

Mr. ADAMS moved to amend the substitute by inserting before "townships" the words "counties and."

Mr. WHITE—I have listened with great attention to the discussion of gentlemen on the subject under consideration, especially to the argument of the gentleman from Ingham, [Mr. BUSH.] That gentleman has told us, sir, that in 1838 a law was passed requiring the non-resident lands to be returned to the Auditor General's office; that from time to time the same was amended, to make it perfect. But, sir, in all this I have not discovered a change in the system; your lands are still returned the same, and are liable to the same expense and rejection. He has entirely failed to convince me that a change in your tax system is not called for. He has failed to answer a single objection that has been raised to it. But his argument shows conclusively to my mind, if it shows any thing, that a change is eminently called for.

It is true, Mr. Chairman, that gentleman has given us the rise and progress of your odious tax law; and he has done us the kindness to trace out the slow, slimy, serpentine course of the oppressive system in its meanderings for the last ten or twelve years. The gentleman has said the present system was perfect—the most perfect tax law of any State in the Union. Yet, sir, before the gentleman from Ingham gets through with his argument, he tells you

that, with a few other amendments to his perfect law, it can be made more perfect, and so as not to work oppressively on any class of tax payers. Even the gentleman from Oakland [Mr. HANSCOM] admitted that the people required a change.

Mr. HANSCOM—I did not. I did not defend the present system, as I did not know enough about the machinery.

Mr. WHITE—The gentleman from Ingham has not answered our argument; he has simply recited the various acts of amendment to perfect the system, which I consider have failed in their object.

The gentleman admits that it works oppressively; that he has participated in the tax sales, and knows that wrongs exist. Another thing he admits, sir; that a "change has come over the spirit of his dreams." That gentleman has been the advocate of a change in your system; and now, sir, he is the advocate of its continuance. Think you, sir, the gentleman from Ingham, with his known political sagacity, would advocate the change of a system that was perfect? He may say, truly, a "change has come over the spirit of his dreams." And there should be a change come over your odious and oppressive tax system. It is expensive in its operations, and the people have sought to change it at the hands of your Legislature. They have petitioned year after year, but to no effect. They now require a modification at our hands, and to place it in the organic law.

The gentleman from Ingham has told us that we have the most perfect tax law of any State in the Union. Let us, for a moment, look into the reports of your State officers and see the workings of this perfect system.

In the year 1838, the amount of non-resident taxes returned to the Auditor General's office from the county of Lapeer was large. There was rejected and charged back to that county, taxes levied for that year, according to the statement sent to the county treasurer from the Auditor's office, the sum of \$4,228 49. On one item of this sum which was rejected some four years after the tax was levied, viz: on \$966 00, there had accrued the expense of 45 months' interest, \$253 60; advertising, \$354 72. Not only the original amount of taxes levied, when charged back, but

the additional sum of \$608 32, as interest and charges.

Another item embraced in the same amount of tax rejected and charged back for 1838, was \$565 45; 45 months' interest on the same, \$148 40; advertising 139 descriptions, \$150 29; thus adding to the original tax levied an expense of over 50 per cent. In order to show more fully the working of the perfect system of the gentleman from Ingham, in its detail, I will give an example of one item of rejected taxes in the year 1839, in the county of Lapeer: On the west half of the south-west quarter of section 33, town 7 north, of range 10 east, was levied a school tax of \$5.00. This was returned, with others, as delinquent unpaid tax, to the Auditor's office. It was afterwards rejected and charged back, with an additional sum, for interest, of \$2.65; charges, \$1.05; making the expense of collecting over 50 per cent; and, failing to do so, not only the original tax, but the expenses accruing thereon, come charged back on those who had once paid a just proportion. This system has been continued since 1838, down to the present time; and these rejections, more or less, come pouring down yearly upon the people, till it has become oppressive and odious to them.

The gentleman from Ingham has said that a change had come over the spirit of his dreams; that a curse was upon the land—a blight worse than the blight of Egypt. I thank the gentleman for that allusion, sir. He has told us that there was a wrong in the system; that he had advocated its reform—a change; and for what, if not to remove this curse and blight from the land?

I propose to show some of the results growing out of the sales of the tax lands under this system. In looking at the Auditor General's report to the Legislature for the year 1849, it will be seen that the amount of non-resident delinquent tax lands which had been previously twice offered, and remained on hand unsold, amounted to the sum of \$25,636 25. In October of last year the sale of these lands was directed peremptorily. The sum realized on such sale was only \$947, the State losing, in closing up two or three years' taxes, \$24,735 76. In Lapeer county, of these lands, on \$1,333 28, the State real-

ized on the sale only \$11 65. Here, sir, is a specimen of the perfection of your tax system, and the gross injustice practiced under it to the best interests of the people. Another argument that has been used to influence the continuance of the present system is, that the people of the new towns are not capable of collecting the non-resident tax; that the new counties are totally unable to pay the State tax, and the treasury would, by a change of the system, become bankrupt, and the wheels of government must stop.

The gentleman from Ingham, in discussing the article on State Officers, a few days since, became greatly alarmed at the proposition for abolishing a sinecure office—that of Commissioner of the Land Office, and the proposition to devolve its duties on the State Treasurer. He portrayed in strong and earnest language the danger that would, if overthrown, result to the liberties of the people, by uniting the two into one. It was, to his mind, a union of the purse and the sword. This proposition—the amendment we propose—will, in a great degree, remove the fears from the gentleman's imagination. We propose to disarm your Auditor General of his damask, in which he has been so near your Treasury, and a terror to the gentleman from Ingham. He alluded in his remarks to the Auditor's office, and said, sir, that honest men had filled it. I do not doubt this. I believe the present incumbent to be every way qualified for the discharge of the arduous duty of that office; that he has discharged that duty to the entire satisfaction of all who know him. I have not assailed that officer, nor any person employed by him. But, I would remind the gentleman from Ingham that there was a time when an inquiry was started in this hall, and on this floor, in relation to a certain ex-Auditor, and the two hundred dollars for extra services. How much more of the people's money may have gone in the same way I shall not undertake to say. The affairs of the office, under your present law, are intricate; your tax system is complicated, as the answer of the Auditor to the call for information from his office, which I submitted to this Convention at an early day, will bear me witness, and which you did not do him the poor compliment to print.

It was said by the gentleman from Ingham that the proposition might do for the old towns, where there were but few descriptions of non-resident land. But the new towns are not prepared for it—that they were not capable of collecting the non-resident tax—they could not do the business. I would ask that gentleman if the supervisor does not prepare and perfect the assessment roll? If the entire business of levying and collecting the resident tax is not done in the new as well as in the old towns? And if it would require any greater ability in the collector to make the amount of the tax from the one case than the other? This argument of the gentleman from Ingham is a reflection on the intelligence and capacity of the people of the new towns, that I shall leave with him to take off.

One other remark, Mr. Chairman, and I am done with the subject. The lands bid in by the State for taxes due on them, are withheld from taxation; consequently the valuation of taxable property is thereby diminished, and great injustice done to the people of the new counties, by increasing their burden of taxation.

Every gentleman, I think, who will give this subject a fair and impartial examination, will see the inequality and oppressive workings of the present system, and be ready, with the friends of the amendment, to do away the gross injustice which is now inflicted on the resident tax payer, and prevent a further loss to the people of this State.

Mr. CORNELL would inquire if it was not charged again upon the county?

Mr. WHITE—The act of the Legislature legalized the illegal act. The Legislature attempted to legalize an act which the Auditor General had declared illegal.

Mr. CORNELL—I did not wish to interrupt the gentleman. I only wished the matters to stand fairly before the Convention.

Mr. W. ADAMS' amendment was negatived.

Mr. ROBERTSON—This is a question of great importance, and therefore I propose to give my views in as few words as possible. This has always been one of the most difficult questions that have engaged the attention of governments—the proper mode of assessing and collecting taxes for

revenue. And yet, it is proposed here to place a system in the fundamental law of the land, where, if it does not work well, it will be beyond all legislative aid. This has never been, and never can be, safely done in any organic law; because the mode of collecting taxes must ever vary according to the wants of the people. We cannot safely take away legislative control over this matter, unless we are sure that the same state of facts that now seem to indicate it will always exist. The arguments which have been adduced in favor of this proposition are all derived from a state of things which exist now; and to engraft a principle of this kind in the organic law, when the reasons urged in its favor apply only to the new counties—and only, perhaps, in these for a few years—is, in my opinion, neither prudent nor wise. What are the arguments brought forward by the gentleman from Lapeer in favor of his amendment? I will examine a few points, and see, if possible, where the difficulty rests.

The gentleman has complained that the present system is oppressive, and gives this instance: that a tax was assessed on a piece of land of only five dollars, and returned unpaid; and that after it had passed through the hands of various officers, it amounted to eight dollars and seventy cents. Now, where did this error originate—in the township, or with some of those transcribing? Undoubtedly in the township; and it was charged back as an invalid tax. Is it wrong, when an invalid tax is charged back, that the towns should suffer for the incapacity or negligence of their officers? It seems to me not.

Another instance is given—a case in which, within ten days last past, a deed was cancelled. Now, sir, this fact, and all such facts, I take to be the strongest arguments in favor of the present system. It is provided there shall be an Auditor General, and in his hands we have placed a large discretionary power—not to set at defiance the law, but to be exercised fairly, prudently, and with a view to the benefit of the citizen—a power to cancel deeds issued by him under the provisions of law, when the title conveyed is manifestly void. And I would ask, sir, if this is not an incalculable benefit to the people? Would

gentlemen desire that a suit in ejectment should be brought in all cases to test the validity of tax titles? Is it not better far to give some officer the power to cancel the title, when, from a known defect, it is clear it cannot be sustained?

Gentlemen have mentioned the numerous defects in tax titles, but not one word has been said as to the source whence all these errors spring. They have told us of errors in transcriptions, and of those alone; and yet, I will venture to say that not one error in a thousand that occur, is to be attributed to that cause. Gentlemen, in asking for so great a change, and that, too, in the constitution, should have conclusively shown where these errors arise, and that they are attributable to the present system. But they have not; and I appeal to the experience of every person acquainted at all with this subject, to say that they are almost universally made by the township officers.

There are many things that invalidate a tax title. Perhaps the officer has not given a correct description—perhaps he has not been legally elected—perhaps the returns have not been properly made, or the necessary oath of office may not have been taken; these, and a hundred other errors, all occur in the several townships. Cut off this bugbear central power, the Auditor General's office—let all taxes be closed up in the several towns—let the township officers have no power to cancel deeds given, and how else would you settle disputed titles under your tax laws but by suits in ejectment. This much dreaded central power, therefore, I esteem as highly beneficial to the people. If a township is authorized to grant deeds, when there is no one whose peculiar office it is to examine and understand the whole law on this subject, we may also expect a much greater number of invalid titles.

But gentlemen say it will bring the whole matter nearer to the people; that if it is only brought nearer to the people, all is right. This cry has been heard on almost every question of doubtful policy. I have heard it oft repeated since I came into this Convention, and I have become heartily sick of it. The people do not desire any other form of government than that we now enjoy—a republican representative government. They do not wish to have

their servants, in whom they have confidence, tamely and meanly to refer every thing back to them, but manfully and nobly to do the work appointed for them. They do not desire that every town should be made a little republic, *imperium in imperio*. Our government is a republic, not a pure democracy.

Mr. Chairman, there must be a central power, somewhere; and really there is nothing so awful about this office of Auditor General, which gentlemen seem to fear is about to subvert all good government. Where are those that cry out against the present system of collecting taxes? We have heard one solitary voice from the wilderness—a voice from Lapeer. Where are the petitions loading your tables? Where are the public meetings? Where the voice of the press, that index of public sentiment? I must say I have not heard any complaints in my own county; and I believe the people are perfectly satisfied with the workings of the present system. I would not be understood, sir, as saying that the present system is perfect. There might be some most beneficial improvements made in it, and there are certain principles that might be introduced here, that, I believe, would be perfectly safe and productive of great and lasting benefits to this system. I will not stop to detail them now, in full, but mention that a tax deed might be made *prima facie* evidence of all previous proceedings, and, after a few years, absolute evidence of title in the purchaser.

But, sir, gentlemen cry "oppression," and talk of vast and unnecessary expense. These things, in vague and indefinite terms, may seem monstrous to the imagination, and fall like a dark shadow on the popular mind. I say to them, give us the facts and figures—give us the statistics on which you base your demand for this great change. Even in a Legislature, gentlemen would be laughed to scorn to urge a financial change in such a manner;—how much more deservedly here.

If you close up all taxes in the towns, you must still suffer losses; for you cannot throw all responsibility of errors on the officers, or you would have none to serve you. If, as it must be under the proposed plan, all doubtful titles were to be settled by law suits, without any power to

cancel, we, of the legal profession, would certainly have no cause to complain. How would it be in Lapeer? We should there see my friend [Mr. WHITE] getting rich by the profits of these contested suits, on the one side, while my other friend from Lapeer [Mr. HART] would be enjoying the other. We, poor lawyers, should, undoubtedly, all grow sleek and fat in this new, untrodden field; but the people would pay for it, and your tax laws, after all, would be less efficient.

All the charges, so much harped upon, come out of the non-residents—the delinquent tax payers; and I care not how freely they are bled. I would pile up additional charges, and make them suffer still more; for this land monopoly by non-residents is an incubus that sits heavily upon the energies of our people; it preys upon their vitals, and retards our onward course to prosperity, more than any other one cause. But, the change proposed will, in my opinion, be productive of no good, is of doubtful policy, even as a law; and certainly never ought to find a place in this instrument. Let us reject the amendment then, at once.

Mr. COMSTOCK—I have listened with great attention to the arguments for and against the present system, and I do not think that the proposed system would work equally and just. With reference to the cancelling of deeds, you have the uniform action of one officer; and I know that, from his great experience, a large amount may be saved, that would be spent in litigation in the State. I have a case where the proof was plain that there had been an error in the assessment and return. A deed had been given. The land claimed was worth fully \$1,000 to me. I might have proved it in a court of justice, but I was saved this expense by exhibiting proper proof, backed by affidavit of the Auditor General. It might be placed in other hands, and wielded with discretion; but I have not learned how. It is a strong argument in favor of the present system—that the person who has the charge of this matter can, when possession is unlawfully obtained, at once cancel the deed, instead of the rightful owner being compelled to spend time and money, and being compelled, perhaps for years, to wait the slow movements of the law. Provision should

be made for the correction of errors that occur, by some competent authority, if there should be vested in the townships the power to sell land for taxes and make title, as no remedy is provided by a return to the Auditor General.

I do not go so far as the gentleman from Macomb, [Mr. ROBERTSON,] who says that he is sick of the talk of bringing things nearer to the people. The nearer anything is brought to the sovereign people, in my opinion, the better; and I hope that of this principle I shall ever be the advocate. I acknowledge their right to know what we do, and to rule. If these errors can be avoided, I shall be in favor of the taxes being collected in the towns. If, upon mature consideration, legal advice is found necessary, and no provision shall be made for it in the towns, I shall be in favor of continuing the power in the hands of the Auditor General, as at present. I am not disposed to leave this matter so loose as to have it subject to change and fluctuation.

It has been said that all these errors occur in the incipient stages. What remedy would there be by removing it from the Auditor's office? The errors would still exist and be as fatal. The best argument in favor of the present system is that errors in title deeds can be arranged without having recourse to the gentlemen of the law, by which usually a great deal of money is spent to little purpose; while at present the matter can be harmoniously arranged.

I disagree entirely with the gentleman [Mr. ROBERTSON] when he says we should get as much as we can from the non-residents. As they are perfectly in our power, should we have no respect for their rights? Yet, the gentleman says he wishes he could take ten times as much, and bleed them still harder than they have been. I go for equal justice—for the principle that would charge no more to the citizen of New York than to the citizen of Michigan; and that we should not charge them thirty or forty per cent., when we charge our own citizens five or ten. This practice by former Legislatures has not only retarded the growth of our State, but has greatly injured our credit. This has brought ruin and disgrace upon the institutions of our State, and the sooner we

can lay a broad platform—insert in the fundamental law of the State equal justice to all—the more respectable and the richer we shall become.

I am not of the number of those who wish to confine within our own borders our sympathy, but should be glad to have it extend to the whole citizens of the United States, and other countries. Then, indeed, we shall show by our acts, what is so much prated about in words, "equal rights—justice to all."

With these remarks, made for the purpose of elucidating the matter, for the purpose of having fully drawn out the relative advantages, I shall leave it and support that system that will yield the most advantages to the people, combined with the least expense.

Why will gentlemen in this Convention contend for the rights of the foreigner as soon as they land him, and yet demand that they have the right to rob from the citizens of a neighboring State? I would give all the privileges in our power to the poor oppressed foreigner, who has fled to our land for protection from tyranny and oppression, and allow him to participate in the affairs of our government as soon as prudence would dictate. And yet I cannot go with the gentleman from Macomb, [Mr. ROBERTSON,] that we have the right to take more from a non-resident, who happens to be citizen of a sister State, merely because he happens to own lands within our borders. I ask, from what are the residents of this State made up? Are they not from other States? And did they not purchase before they became residents? And shall we now say, as it has been too much the disposition of former Legislatures to say, oppress the non-residents? Does not the father, who may now reside in New York or New England, purchase lands here that his sons may become residents with us? Will you attempt to oppress these men, who, if you render equal justice to them, will be among our own citizens in a short time? or will you, while proclaiming Michigan as the asylum of the oppressed, by your acts of injustice, drive them from our borders? I think this will not be the case. The time has come when our acts should speak.

Mr. J. BARTOW—The advocates of the new system do not go into details, and probably there is a good reason for it; for

the moment they attempt it they find themselves surrounded with difficulties. If they make the townships independent for this purpose, if they say that the tax rolls shall be closed in the towns, if, in short, they make six hundred Auditor Generals' offices, they will find themselves involved in difficulties, for there must be a reviewing power. The towns cannot be made the last resort. Where, then, shall the power be placed? Or where, I would ask, can the central power be better placed than where it is now? If you make the county treasurer the reviewing power, you give up the principle; then you make it a mere question of expediency. We have tested some questions to the uttermost, and this is one. We placed it in the hands of the county treasurer. Did it work well? No, sir; it was a complete failure, and the present system was obliged to be substituted; and I care not how much gentlemen may endeavor to seek popularity by advocating this measure, we must have a central reviewing power, if we wish to advocate the best interests of the State. I do not wish the details unnecessarily complicated; but I consider the present system beneficial in its operations, and one that is sanctioned by public opinion. It is equal and just; and so arranged as to guard the rights of the public—the residents and the non-residents equally as well; and this will ever be the case if the Auditor General does his duty. But the system proposed must be considered impracticable, even when viewed in the most favorable light.

If the advocates of the opposite system will show how they are going to accomplish this measure, with advantage to the State and equal justice to all, they can then with more propriety, urge this Convention to efface this institution.

Mr. CRARY—I fully expected, Mr. Chairman, that the old cry would be raised: "you give no details." We can give details, but we do not want to put them in the constitution. I think that the delegate from Ingham [Mr. BUSH] has given us a good speech upon the history of taxation, and the political history of the State for the last few years; but he did not answer the argument as to the propriety of sending the returned lands to the Auditor's office. I would ask the gentlemen from Genesee and Ingham, if there is a propriety

in having the lands returned, and redemption allowed at the county treasurer's office, and likewise at the Auditor's office? My friend wants to buy a piece of land; how does he know that he has a good title? He goes to the county treasurer's office, and finds it is not redeemed; and yet it may be redeemed at the Auditor's office, and no trace of the redemption at the county treasurer's office is to be found. He is therefore uncertain about the title, and has to send to the Auditor General's office to learn its condition.

Mr. BUSH—They are compared once a month.

Mr. CRARY—I allude to the redemption, not the sale. The system is so complicated that mistakes must and will occur, and the Auditor General cannot remove the defects. There may be a good title in one township, a bad one in another; good in one county, in another worth nothing. There is a defect in the system—a defect that destroys all confidence in it by the people of this State.

Mr. BUSH—How will you reform it?

Mr. CRARY—I cannot go into detail, here; but, a system can be presented, simple, safe and effectual, for the purpose of collecting taxes and giving good titles. When a man wishes to remedy an evil, and points to the example of other States, he is met with the old remark, "our circumstances are not the same as theirs." A good Legislature will compare circumstances. If a certain measure operates well elsewhere, all other things being equal, it will operate well here. I fully admit, however, that when the circumstances of the two States are different—a system of education, of judiciary and other branches of government, which would work well in one State, might not in another. What is the argument here? That you are giving too much power to the people. Yet the people are better able to manage this than the elective franchise. They can manage dollars and cents. You give them the shadow but deny them the substance.

The gentleman from Ingham says that our situation is different from the New England States, and different from that of New York. The system of New York has always been expensive, and the great effort on our part should be to cheapen the mode

of government. We have cut out whole codes of laws from Massachusetts and New York, and after we found they did not answer, we cut them out again. I have no doubt that this proposed amendment will hurt the land agents. I do not know but the gentleman from Lapeer may be a land agent; but I am not, never have been, and never hope to be.

Mr. WHITE had occasionally taken charge of lands, but was not a land agent; that was not his business.

Mr. CRARY—Six States have adopted this system, and five out of the six are old States; their cases would not be analogous. It was otherwise with the State of Maine; although it was an older State, it was similarly situated to Michigan. They had old lands and new; resident and non-resident lands. The State of Maine sells her lands through the medium of her township treasurers; the whole business is closed in the townships. The townships are made responsible for the result, and, therefore, it is always correct. Here, neither the township nor the State is responsible, when the title proves defective; but it is sent back and made a charge upon the town, with increased expense, and interest added.

[Here Mr. CRARY read the law of the State of Maine.]

The system works well. They sell all the lands at the time the tax is closed up. Non-residents are treated the same as residents. Many of the non-residents in our State would probably prefer that the land titles should be closed up in the townships, because it is cheaper, and will make a better title, if you make the townships or counties responsible. The new townships and counties will have to pay money to the State, and they can do it, if you make tax titles worth something—if you give good interest for the money until redeemed. Upon this principle all the lands will sell at the time the treasurer closes his warrant. It has been said that persons will not go to the different townships; they or their agents will go if they can make money. Make the title complete except the tax has been paid; give the person fifty per cent for the use of his money, and I will engage that all the lands of the State will be sold in the townships. By pursuing this plan, whatever may be its fate in this Convention, I do not doubt that the system

will be a great saving of expense to this State, and will work admirably well.

Mr. McCLELLAND—I will detain the committee a few moments in reply to some of the remarks that have fallen from gentlemen. This discussion has taken a strange turn; much better adapted to a legislative body than to this Convention. This compels me to be more digressive than I otherwise should be.

The present system of taxation has, undoubtedly, defects; and it is impossible to conceive one which shall have none. As they are discovered, instead of abolishing the system, it would be wise to come and correct them. The last remark of the gentleman from Calhoun—although, by the by, it is a strong argument against the proposition—is correct: that if inserted in the fundamental law it cannot be changed, if found impracticable, without a change of the constitution itself.

It appears to me that we cannot judge, from the experience of the old States, how the system would operate in this State, because the condition of things is not the same. Even the State of Maine, to which allusion has been made, is not similarly situated. Its population is different, its people are wealthier, its non-resident lands are less numerous, and the system is one of long usage. I apprehend few of the members would adopt this system, because it makes the towns responsible for the proper discharge of the duties of their officers. Other of the old States have adopted the same system, and none of us would be justified in imposing such burthens upon our townships.

If you throw the sale of lands delinquent for taxes into the townships, and give to it immediate effect, you cannot find purchasers for them. The amount chargeable on lands advertised for the past year was about \$80,000, and the State was compelled to bid in of these lands some \$32,000 worth—nearly one-half of the whole amount.

If sold in the townships, the land would be measurably beyond the reach of non-resident purchasers, and the townships, or its inhabitants, would be compelled to purchase them, and where would so large an amount of money come from? In the new counties, where there is a large body of

non-resident land, it would be impossible to carry out the principle.

Mr. CRARY would ask if this \$80,000 was the original amount, or the sum total after the charges had been made upon it?

Mr. McCLELLAND supposed the gentleman from Calhoun knew all about it, and therefore did not require a reply.

Another objection to this system at this time is, that many purchasers buy from year to year in order to secure tax deeds enough to render their title indisputable, and it will preclude them hereafter. The demand for this description of land is increasing, and many will probably be purchased at the next sale with a view of pursuing this course; but if this change is made, such inducement will be destroyed, and all land, not heretofore sold, will fall to the State, and the amount will be very large. Besides it will be difficult to arrange the provisions of law adapting one system to the other, so as to save the State or the land already purchased by it, and to prevent a conflict between it and the township in regard to subsequent taxes.

The gentleman from Calhoun says that when a lot of land is redeemed, that fact is only known at the Auditor General's office, and the party interested is compelled to communicate with that office to ascertain it; and this is often attended with great delay and expense. Grant it; it can be easily remedied by requiring the Auditor General to give notice of said redemptions in his monthly returns to the treasurer of the county.

An important object to be attained is uniformity in the assessment and collection of taxes over the whole State, and this can be more readily accomplished by the present than the township system. The arguments of the gentlemen from Genesee and Macomb are conclusive upon this point.

You have now a most experienced officer to attend to all the duties pertaining to your tax system—a man of large experience, perfectly familiar with all the changes that have been made in it since the organization of your State government—who has devoted much time to it, and made it a study—and is he not far more competent to superintend its operation, and make it efficient and useful, than those who, from various causes, would be able to know little

about it? He can with ease point out an error which you or I would entirely overlook, or labor for months before we should discover it. The office charges are about \$2,500 per annum; which covers the whole expenses of the office, except about \$400, which is drawn from the treasury; so that this constitutes no ground of objection.

In 1843, the Legislature enacted a general tax law, the main features of which have been preserved until the present time. It was then urged that the system was expensive and burthensome, and the same arguments were used as are now. The most prominent objection was, that it was unjust to the non-residents; but a day or two after, a memorial was presented from the non-residents and their agents, giving their reasons at length for the adoption of the system then proposed, and stating that, although the expenses incurred were great, yet they preferred having the privilege of paying their taxes at the office of the Auditor General, to being driven into every county and township in the State.

According to the present law the township receives the first moneys collected, the county succeeds to the next, and the State receives its portion last. There is nothing in this to which the townships or counties can object. Reverse the order and the people would not submit to it. It is true the State bids off the lands not purchased by private bidders, but this places in its hands the power of sustaining the government—a most important and necessary power. Take this away, and make the State subject to townships and counties for its support, as is proposed by the amendment, and great difficulties and embarrassments are to be apprehended. At this time my own county—and many other counties are in the same condition—is on the books of the treasury department largely indebted to the State; and all the indebted counties are considered, I presume, by the State officers, as rather refractory. Place the control of the question of this indebtedness in their own hands, and the machinery of your State government would soon be out of gear.

I have a different opinion of the validity of tax titles from that expressed here. I have more confidence in them than the gentlemen from Calhoun and Lapeer.

Mr. WILLIAMS would inquire if the

gentleman had ever seen a tax title maintained?

Mr. McCLELLAND would answer the question by asking another: Has the gentleman from St. Joseph known any case to have been tried since the passage of the act of 1843, and under the principle then established?

Mr. WILLIAMS—I have been requested to pay extra upon lands sold for taxes, and when I refused, the purchaser gave up his claim as worthless.

Mr. McCLELLAND—Has he tested any of them in our courts?

Mr. WILLIAMS—I have not.

Mr. McCLELLAND—I have bestowed some attention upon the subject, and I undertake to say there are good tax titles in the State, that can be sustained in a court of justice. The requirements of the statute are simple and easily understood, and there is little difficulty in complying with them. I have more confidence in the competency and sagacity of our county and township officers, than gentlemen who have addressed the committee.

Mr. WHITE—Have I said any thing against them?

Mr. McCLELLAND—The gentleman said that tax titles were worthless. Why? Because the county and township officers have not discharged their duties faithfully. What other inference can be legitimately drawn from his remarks?

By the existing law the deed is made *prima facie* evidence of all the proceedings, from the valuation of the land by the assessors to the date of the deed, inclusive. Under this rule of evidence it is far more difficult to contest successfully a tax title, than formerly. The burthen of proof is upon the contestant of the tax title; whereas, in most of the States, it lies with the owner of the tax title; and in consequence of the strictness in the proof required by the judges, few cases have been sustained. But, under the rule established by the Legislature, I do think the legal profession will find more difficulty in overthrowing tax titles than is generally supposed. I am aware that the opinion expressed to day, adverse to the validity of tax titles, is honestly entertained by many; and I know that it has been the cause of much evil to the State, in preventing the purchase of tax lands; but, I believe our attorneys

have not had occasion to examine thoroughly the question, nor have they given a well matured opinion upon it. At all events, where I knew the county and township officers to be equal to their duties, I would venture something on a title acquired since the adoption of the principle of 1843. If these titles are defective, what would they be without the supervisory powers of the Auditor General? He promptly points out the errors, and they are generally rectified by the officers, or by your remedial and curative laws.

It has been suggested that the taxes from non-residents are not collected as soon as those of residents, and that herein the residents are oppressed. This may be true to a certain extent; but it must be admitted that the non-resident has to pay roundly for the delay. The evil, however, could be easily remedied without any change of system, by shortening the time that elapses between the return of the delinquent taxes and the sale. I would also shorten the time of redemption, and fix upon a reasonable time when the Auditor General's deed should be conclusive, unless a payment of the tax, pursuant to law, could be proved to the satisfaction of the court or jury. In this way tax titles can be made perfectly secure, and your delinquent tax lands will not have to be bid in by the State, and there will be very little delay in the collection of non-resident taxes.

The gentleman from St. Joseph [Mr. WILLIAMS] says that tax titles are worthless, and so considered. That is not so in many parts of the State. Tax title lands have been sold for large advances, and confidence is being placed in these titles, and the purchasers of them are increasing. I prefer leaving the whole subject to the judgment of the Legislature. If defects worthy their attention are brought to their notice, they will be cured. If, in the trial of causes involving the tax laws, difficulties arise relative to the assessment and collection of taxes, which require the interposition of the Legislature, the best interests of the State will induce them to act promptly. Experience points out the defects of every system, and it requires years to mature and perfect it. There is nothing so injurious as constant change, especially in so important a feature of government.

The gentleman from Lapeer [Mr. WHITE] says the people will not bear with this system any longer. Under our new constitution the representatives will be near to the people, and they will have greater control over them than heretofore; and will not the gentleman trust them, and will they not be as trustworthy as we are? I have no fear they will prove recreant to the trust reposed in them. I would willingly entrust them with any ordinary power, but not with the distribution of money or lands and things directly pertaining thereto. We are legislating too much, and I hope the committee will come to the same conclusion I have—that this subject does not belong here, but is a proper matter for the consideration and action of the Legislature.

Mr. CORNELL—I differ from my colleague with respect to this matter, because I think under our present circumstances it is impracticable. It cannot be carried out in the new counties—they cannot avail themselves of the law. I am confident, from my experience, that such would be the case. We had a law some time ago, much like the one attempted to be made now, authorizing the counties to close the tax roll; it did not work well—it will not now.

The system might work well in the older counties—it might in my county; but it would not in the new counties, because they are in the same circumstances that we were when the first law was attempted to be introduced. Monroe and Jackson could not pay their tax, and a law had to be passed releasing them from their liability. They had nothing to pay with except their lands. Would the new counties be better off now, if they could not sell their lands? As it stands now, the State is pledged to give them credit for the lands that are not sold. Even if this proposition were proper, I do not think this is the proper place to insert it. We should in this Convention assert general principles, and leave the rest to the Legislature. I am opposed to the amendment of the original proposition. I think it is out of place.

Mr. KINGSLEY—The proposition before the committee appears plausible, and I fear a majority of members may be induced to vote for it. If the measure prevails, it makes a very essential change in

our system of collecting taxes—a change, the effects of which should be well understood before we venture to make it.

I will notice some of the arguments urged in favor of the change. One gentleman says that non-residents and residents should be treated alike; and, therefore, the non-resident should have the privilege of paying his tax in the township where the land lies, the same as the resident has. He has that right. The tax roll is made out and put in the hands of the collector of the township, and remains there from the first of October to the first of February, four months. This the non-resident knows, or ought to know. Why does he not pay his tax when the resident is compelled to pay his? Because he does not wish to pay; he wants the tax returned unpaid to the Auditor's office, so that he can pay all his taxes in the State at one place; for he probably owns land in different parts of the State, and it saves him travel and expense to pay where the taxes are all sent.

One gentleman has observed that it was bad that non-residents did not pay their taxes in the townships when others did. It may be bad for them; but it is doubtful if it is bad for us. On the return of the taxes unpaid, they draw fifteen per cent. interest; and after the lands are sold they draw twenty-five per cent. interest. A great part of the expense of our government is defrayed by money arising from the sale of non-resident lands, and the interest on the taxes.

Those who are in favor of changing the present system of collecting taxes, and confining the whole operation to the townships, base their arguments on the ground that the change will benefit the non-resident. By non-residents, I do not mean those only who live out of the State, but those in the State who do not reside in the townships or counties where the land lies. It is they who have always resisted a change in the law now proposed. It was they who were anxious for, and were instrumental in procuring the passage of, the present law. And they desired it because all their taxes in different parts of the State could be paid at one place. It is expensive for them; but still they prefer the present system. I have just been informed that twenty-five hundred dollars a year is paid for receipts

and little services rendered in the Auditor's office for those who pay taxes there. The principle object of the State is to have the system for collecting taxes such that the money can be raised on the sale of taxed lands. It is against the interest of the State to bid off taxed land at auction at any price. A system which gives all an equal chance to bid cannot be partial; nor can that system be oppressive which is the choice of those whose lands are sold under it.

The amount of taxes which were to be raised by the sale of lands in 1847, was more than one hundred and twenty thousand dollars. That year, and since then, there have not been purchasers enough for the lands offered for sale. Much of the land has been struck off to the State. Money has been sent from other States to purchase tax lands here, and yet there has not been sufficient to purchase the lands offered. If these lands are sold in the townships, less confidence will be had in the title; and, consequently, less money will be invested in the purchase of such lands. It is evident that the few persons who buy these land—speculators, if you please to call them so—cannot attend the sales in each organized township, amounting, it is said, to near six hundred. But, it is said, individuals in the townships will bid off the lands. They might do it in the old counties, but not in the new. There has not been and will not be money to be spared to do it. If they would buy the lands sold in the new counties, why do they not come here to the office and purchase them of the State?

Again, it is the practice under the present tax system, to correct as far as possible all errors in the assessments and returns; and even after a deed has been given upon a sale, there is power given to the Auditor General to cancel the deed, if an error be discovered in the previous proceedings.

The present system has been in operation some twelve years, and it has been from time to time improved, so that no State has a better system. It is now proposed to change this system, and have the whole business done by the township treasurer—an officer who is changed every year—who keeps no office, no books of record—whose only paper is his tax roll.

which he carries in his pocket. He is a sort of walking treasury—a perambulating office, through which it is proposed to pass all titles given on the sale of taxed lands. This change would compel you to go into each township to look for incumbrances on land in that township; an inconvenience hardly tolerable.

But, it is said that the present system is expensive—that the transferring, transcribing and advertising taxes costs much. Who pays this expense? The non-residents. The expense is not paid by the people at large. They have no reason to complain of the expense. It is paid by those whose lands are taxed and sold, and who prefer the present system to the one proposed. I hope no change will be made in the system.

The amendment of Mr. WHITE was lost. Mr. BUTTERFIELD's proposed section was not adopted.

Mr. BUSH moved to add a new section, as follows:

Sec. 15. Any tax deed given for land returned and sold as delinquent for taxes, shall be conclusive evidence of the legality of all the proceedings prior to and including the sale; and any suit in ejectment for the recovery of said land shall be commenced within five years from the date of said deed, and not thereafter, unless the original tax, upon which the deed was predicated, had been paid.

Mr. TIFFANY—The meaning is, if any person wants the use of another person's property without paying for it, he can have it.

Mr. BUSH—There is a change with regard to the rules of evidence.

Mr. WILLIAMS—But there is one class who will not know the rules of evidence—all that large class composed of minors, who succeed to land by inheritance; small landholders, who reside in distant States, who have trusted to dishonest agents, and ignorant or negligent men, whose all consists of a single eighty acre lot—all this class may fall into the clutches of the professional sharks scattered over your State, whose sole study is to obtain, without earning, other men's property. I fear this large class will hardly understand the rules of evidence. This kind of persons are the sufferers by an erroneous and cruel system of taxation. They suffer from

its exactions; they feel its injustice; they are incensed by its cruelty. Rob such a victim under your present complicated, tedious and extortionate system of taxation, and you may ruin him. The least you do is to alienate him, discourage him, and perhaps drive him from your State.

It is an idle and ridiculous idea that the excessive costs and impositions of the present system fall on the large non-resident landholders. They generally pay on system, and pay economically. They hold their land agent to a strict accountability, and he fears to try any experiment on them. If their land is sold, the purchaser surrenders it without contest, knowing and fearing his antagonist. These titles have had, under the present system, so little of the public confidence, that they are rarely set up seriously against those who show the ability and determination to resist them. But it is far different with the young man; the inexperienced, friendless poor man, and perhaps a stranger and ignorant of the law. Not able to cope with legal men, and designing heartless men, they submit to be fleeced—perhaps shake the dust of your State from their feet in disgust, and seek some other State, where they can find more sympathy, and institutions tempered and administered with justice, and where the government does not descend from its high dignity to fill its coffers with petty pilferings. No sir, where one large non-resident landholder pays one dollar as tribute to the present system, the innocent, deserving, industrious poor man pays fifty.

Mr. TIFFANY thought that if the Convention wished to establish the principle that one man might take the property of another without paying for it, they had better establish this principle. It would be a temptation to every agent to become a villain—families might be swept of their all; and he considered the evils so manifold and great, that he hoped the Convention would not entertain the proposition for a moment.

The section offered by Mr. BUSH was lost.

Mr. BRITAIN offered the following as a substitute for section 1:

Sec. 1. All specific taxes shall be applied in paying the interest upon the primary school, university and other education-

al funds, and of the balance of the State debt, in the order herein recited, until the first of January, eighteen hundred and —, at which time said specific taxes shall be added to, and forever thereafter constitute a part of, the proceeds of the primary school funds.

Mr. BRITAIN also offered the following as an addition to the article, viz:

Sec. 15. Every act making an appropriation not expressly provided for by this constitution, shall contain a provision for the necessary State tax to meet such appropriation, and a statement of the year or years in which said tax is to be levied; and said act shall, before it shall take effect, be submitted to the people at a general election, or at the annual township meetings, and be approved by a majority of all the votes given for and against it at said election or annual township meetings.

Sec. 16. All lands sold for the non-payment of taxes, even though sold by a county officer, shall be sold in the township in which they are situated.

Sec. 17. Every assessment roll upon which the resident taxes have been paid, and which has been returned by the collector, shall, with said return, be conclusive evidence of the legality of all taxes therein contained, and of every thing pertaining to said taxes, except as against errors contained in said roll, and receipts for payment of taxes returned as unpaid.

Sec. 18. The Legislature may provide by law as follows:

1st. That a deed given by any legally authorized person to a purchaser of real estate, sold for non-payment of taxes, shall be *prima facie* evidence of title to such real estate.

2d. That peaceable possession of real estate by any person whose title thereto shall be based upon a tax title thereof, for such time as the Legislature shall prescribe, not less than six nor more than ten years, shall be conclusive evidence of title thereto.

3d. That no person whose title to real estate shall be based upon a tax deed made after the first of January, eighteen hundred and fifty —, shall be ejected therefrom until he be fully paid for all improvements thereon, either made or purchased by him.

Mr. McCLELLAND moved that it be printed. Carried.

Mr. ALVORD moved that the gentleman from Berrien have leave to print whatever he chooses, and let the committee rise.

On motion of Mr. McCLELLAND, the committee rose, reported progress, and asked leave to sit again.

The committee, through their chairman, reported the same back to the Convention, and asked and obtained leave to sit again.

On motion of Mr. STOREY, the Convention adjourned until Monday morning, at 8 o'clock.

MONDAY, (42d day,) July 29.

The Convention met pursuant to adjournment, and was called to order by the PRESIDENT.

Prayer by the Rev. Mr. MERRILL.

PETITIONS.

By Mr. WARDEN: of Sarah McCamley and 43 other ladies of Brighton, Livingston county, praying the Convention to prohibit the sale of ardent spirits, except for medicinal or mechanical purposes, after the first day of January, 1854.

Referred to select committee upon the subject.

By the PRESIDENT: of the officers and other members of the Detroit City Guards, that the provision in article 10, section 4, of the present constitution, in relation to money paid "by persons as an exemption from military duty," may be rescinded, and for other encouragement to volunteer companies.

Laid upon the table.

MOTIONS AND RESOLUTIONS.

Mr. McCLELLAND submitted the following substitute for section 2, of the article entitled "Judicial Department."

"For the term of six years, and thereafter until the Legislature shall otherwise provide, the Judges of the several Circuit Courts shall be Judges of the Supreme Court, three of whom shall constitute a quorum, and a concurrence of a majority of judges present shall be necessary to a decision. The Legislature shall have power, if they should think expedient and necessary, to provide by law for the organization of a separate Supreme Court, with

the jurisdiction and powers prescribed in this constitution, to consist of one Chief Justice and two Associate Justices, to be elected by the qualified electors of the State. The separate court, when so organized, shall not be changed or discontinued by the Legislature for six years after its organization. The judges thereof shall be so classified that but one of them shall go out of office at the same time; and their term of office shall be the same as is provided for the Judges of the Circuit Court."

Which, on his motion, was referred to the committee of the whole.

On motion of Mr. McCLELLAND, the article entitled "Legislative Department" was taken from the table.

On motion of Mr. J. BARTOW, the Convention was resolved into a committee of the whole on the article entitled "Finance and Taxation," Mr. MASON in the chair.

The article was taken up for consideration, and the chairman of that committee being absent,

On motion of Mr. J. BARTOW, the committee rose, reported progress, and obtained leave to sit again.

On motion of Mr. TIFFANY, the Convention was then resolved into a committee of the whole on the article entitled "Judicial Department," Mr. Cook in the chair.

Section 1 having been read,

Mr. BAGG moved to insert after "circuit courts," in line 1, the words "county courts;" which motion did not prevail.

Mr. SULLIVAN moved to insert after "circuit courts," the words "in county judges;" which motion was disagreed to.

Sec. 2. The supreme court shall consist of three Judges, two of whom shall form a quorum, and the concurrence of two shall be necessary to every decision. A Judge dissenting from a decision shall give his reason for such dissent in writing.

Mr. MASON moved to strike out "three" in the first line, and insert "four," and also "two" in lines one and three, and insert "three."

Mr. M. said the object of the amendment was to get a decision of three judges in concurrence. The people would have more confidence where the decision was so sustained.

Mr. GOODWIN said he concurred fully with the views suggested by the gentle-

man from St. Clair, [Mr. MASON.] He thought, for a court of last resort, four judges would be the best number that could be had. In a last decision, there are two objects to be attained. First, the particular case to be decided, and the question of law to be settled, not merely for that case, but for cases which may arise subsequently.

In a court of four judges, a majority would be three, a larger number proportionably than in any other number you can propose. A majority of three to one will probably settle a principle permanently. In case of an equal division, the decision of the court below would be sustained; but it would not settle the question in future cases.

There is another consideration which should be kept in mind in relation to a court of last resort—the responsibility of each individual in the decision which has to be made. If you have a large number, you fritter the responsibility of each away. A tribunal should not be so large but that each judge should feel the weight of individual responsibility; and yet a majority of that body should be able to settle the question of law in all future cases.

The only objection is the expense. Now, when we are organizing one of the separate and distinct departments of the government, the salary of one additional judge is but as a drop in the bucket. The expense, he [Mr. G.] hoped the Convention would not regard. Evils have existed which call loudly for their correction. If they would be corrected, the pay of one additional judge would not be of importance.

Mr. CRARY said the arguments were altogether in favor of striking out, so far as giving character to the court was concerned. The only question before the committee was the expense. You cannot get, in fact, so large and decisive a majority on any case on which they decide, as it must be—three to one. It is certain that a court consisting of four judges must be better than one consisting of three; the question of expense is the only one of consideration. He would state that such was the constitution of the courts of Great Britain. Four judges are appointed to each court; although additional judges have been put

on the bench, only four are allowed to sit in banc on appeals from their decision.

Mr. BACKUS said—Mr. Chairman, it strikes me that no subject of greater importance can be brought before this Convention, than the organization of that independent arm of the government, the Judiciary; and whatever would procure the disposition of cases in a speedy manner, and such as would attain and maintain the confidence of the people, is, of all others, of the most importance. No other number for a court of last resort can be indicated in which a greater strength of opinion can be obtained than four.

It is of the greatest importance that in a court of final resort, the people should have confidence in their decisions. In a court of three, the judgment may be affirmed in the opinions of two. In a court of four it must stand three to one. If three do not concur, the decision of the court below is confirmed. The courts, both in England and America, have uniformly adopted that number, as giving a greater strength of opinion than any other number can do. As our population is increasing, the business of our courts is increasing. The business of municipal courts will have to be reviewed in the Supreme Court. The Supreme Court being composed of four judges, you have three-fourths to alter the decision.

The object of courts is to have an end of litigation. It is to be presumed the people will put proper men there; but it is the nature of men to quarrel with decisions made against them; and it is proper that they should not change a decision without such a number as will give strength to their decision.

The only question is that of expense. I hope the people will not object to a correct principle on account of the paltry matter of the salary of a single judge. As it is of vast importance that the opinion of the Supreme Court should have weight in the community, and as the constitution will last a long time, I trust the amendment will prevail.

Mr. MASON's amendment was adopted.

Mr. BACKUS moved to insert after "decision," in second line: "the majority of the judges shall give their opinion in every case in writing, under their signatures."

Mr. B. said he would state the object of the amendment. Our past experience in the State had been this: our Supreme Court has consisted of five judges. How the practice had been, he was not prepared to say; but opinions have been delivered by a single judge, and other judges have remarked that it was not their decision—that they had never heard of it.

My object in this provision (said Mr. B.) is, that the judges shall see it and know it before it is decided, and that their responsibility shall be impressed upon the court. That in any question the reputation of the court shall not be called in question by disclaiming either the reasons for, or the grounds of, their decision. If they dissent, let them give their reasons; they are entitled to weight. I should wish to see the opinion of all the judges—both the majority and the minority—on concurring or dissenting.

The amendment was adopted.

Mr. BRITAIN offered the following as a substitute for the section:

"The Supreme Court shall consist of four judges, a majority of whom shall form a quorum, and a majority shall be necessary to any decision. A judge dissenting from a decision shall give his reasons for such dissent in writing, under his own signature."

Mr. WHITEMORE said this alteration would allow two Supreme Court judges to decide a case when a majority of the court was sitting. He was opposed to the proposition.

Mr. BRITAIN said he had no anxiety to have the amendment adopted, unless it should be considered proper. He had offered it for the purpose of ascertaining whether we are to have a practicable or an impracticable court. If four judges be present, it requires three to make a decision. This appears to be well enough; but if only three are present, the question presents itself, shall it either require the unanimous opinion of the whole court, which, perhaps, it may be impossible to obtain, or permit one dissenting judge, in effect, to make a decision of the Supreme Court, with two out of three judges against it? It is desirable that a majority should give a decision, because then you can always get a decision. There may be reasons which would render it proper that it

should be rejected, but I cannot see them. My opinion is, that a majority of the court should be able to make a decision.

Mr. BACKUS said he should regret to see that arrangement made, if he understood it correctly, because he thought it would be improper. The object to be sought is, to terminate litigation in the inferior courts; and a less number than a majority should not reverse the decision of an inferior court. It would be better in the case of such a contingency as the necessary absence of one of the judges, that the case should go over, than that two should reverse the decision of the inferior court. He should regret to see any less number than a majority of the whole court be able to reverse decisions made by inferior courts.

Mr. TIFFANY—As the section now stands, it requires three judges to make a decision. It seems to me that some amendment is necessary, because three judges may never agree; and a case should not be hung up until they should be brought to concur in opinion. In case they cannot concur, a judgment should be directed confirming the decision of the inferior court; and in the case of four judges, and only two agreeing, the judgment below should be confirmed.

The substitute was not adopted.

On motion of Mr. HANSCOM, the word "final" was inserted before "decision," wherever it occurs in line 2.

Mr. McCLELLAND renewed his motion to strike out section 2, and insert the substitute he had offered this morning.

Mr. McC. said—Mr. Chairman, I approach the discussion of this question with diffidence, because it is one with which I do not claim to be as familiar as I should be to enlighten the committee. But, as we are called upon to change our old system, and adopt one entirely new to our people, I will submit some remarks in opposition to it, and in favor of the amendment which I have deemed it my duty to propose.

The article reported establishes a Supreme Court separate from and independent of the Circuit Courts. The amendment proposed blends the two, and continues the union for at least six years; giving to the Legislature at the expiration of that time the power of adopting the "independ-

ent Supreme Court system." Thus far the arguments of the gentleman from Calhoun, [Mr. CRARY,] in favor of the latter, have not been answered; nor, in my opinion, can they be successfully. Neither the ingenuity of the gentleman from Oakland, [Mr. HANSCOM,] nor the legal learning of the gentleman from Wayne, [Mr. BACKUS,] has overthrown them.

Sir, it will be admitted that the judicial business of the State has rapidly diminished—that the amount is not so great now as formerly. During and subsequent to the great financial pressure that pervaded this Union a few years ago, and crushed to the earth the people of this State; and the system of banking which was unfortunately adopted here, the terrible effects of which will not soon be forgotten, litigation was much increased; the halls of justice were constantly filled with suitors, and it was morally impossible for the force on the bench to dispatch all the business promptly; yet, even then there was very little complaint. As public opinion becomes enlightened, the business habits of the people settled and fixed, and our laws stable, there will not be so much litigation in proportion to the business and population of the State. Hereafter we shall have less legislation, fewer changes in our general laws, and not so many important innovations as heretofore.

The older a State grows, and the better established its institutions and laws, the more judicial business decreases; such is the experience of all in most of the States. This ought to be the case here, and with the exception of commercial points, I have no doubt it will be so.

Within a few years past the practice and pleadings in our courts have been much simplified, and the progress of reform is still going on. On the law side, radical changes have been made, and the proceedings are perhaps as simple as in any other State of the Union. My own impression is, that the same course ought to be pursued with our chancery proceedings. They should be assimilated, as far as practicable, to the other, and the law and equity united to as great an extent as possible. There is no good reason why, between the same parties, law proceedings should be prosecuted to a final termination, and that not till then a resort should be had by the

party having an equitable defence to the chancery side of the same court, when in very many cases the whole might, with almost equal convenience, and without the same delay, cost or expense, be prosecuted together, and the judge decide the whole matter in dispute at once, upon its true merits.

Many wholesome changes might be made, which would tend to lighten the burthens of litigation, deprive judicial proceedings of unnecessary technicalities, enlarge, instead of cramping, the minds of the legal profession, and secure to our citizens a decision of cases entirely upon their merits. The ends of justice are to be attained. The old systems of practice and pleadings have been too complex and intricate to accomplish this object. If such substantial reforms as are required were made, it would diminish vastly the business of our courts. Can it be done? I believe it can without difficulty. An erroneous idea pervades some sections of our State, and has taken hold of the minds of some of the members of this Convention, that these things have been prevented by sending lawyers into our legislative halls. It is a common remark that the "bad laws" were drafted or pressed through by them. This is a grave charge, and one that is too generally believed. I freely admit that there have been, here and elsewhere, members of the legal profession elevated to that and other offices, who come properly within the description of a distinguished Irish orator, "like drowned bodies, while ought of soundness remained they were left sunk at the bottom, but becoming buoyant with putrefaction, they rose as they rotted." Such men are to be avoided, no matter in what class or profession they are found, and it is unjust and unfair to judge of a whole body by the character and conduct of these unprincipled knaves. No State was ever injured by having in its Legislature a fair proportion of those who are worthy and able members of that profession. There are many in it who are good, honest and true, and would be ornaments to any profession or calling in any State. Send such to legislate for you, and my word for it, the people will not complain of their actions. They are not opposed to useful reform, and knowing the defects in the present system, would willing-

ly aid in speedily and permanently curing them. But because a few unworthy members have crept into office and grossly abused the trust confided to them, do not denounce one of the highest and most honorable professions in the land.

The gentleman from Oakland [Mr. HANSCOM] says the duties of the circuit judge conflict with his duties as a judge of the Supreme Court, and *vice versa*; and that they interfere too much with each other. Such should not be the case. If the fact be so, it cannot be properly ascribed to the system itself, but to the judges. It may be that they have not properly arranged and systematized their circuits and courts. If the system is properly chargeable with the evils of which he has spoken, why has it not been discovered in those States where it has existed for many years, and given satisfaction to all who were interested in it? So far from objections being raised to it there, it is considered and respected as a most useful and admirable system. Having been tested for a long series of years, and answered well the purposes for which it was intended, it is strange that it should have operated so badly in this State, as the gentleman from Oakland charges.

Again, he would require the Supreme Court to be held twice annually in each circuit, and would, as he claims, in this way save great expense to lawyers and clients. This is not consistent with my views. The court should meet at two or three of the most eligible and prominent points in the State, where the judges could have the advantages all courts of dernier resort should possess. Of what consequence is it to the bar or the people to have it truly a traveling court, as the gentleman would have it—hearing causes argued where probably law libraries are very limited, and where, after the arguments were closed, they would from absolute necessity be compelled to adjourn to some place where they could have access to the authorities cited, and others which they might be disposed to examine. I would consult, to a reasonable extent, the convenience of the bar, but would it not be desirable for them to have the court held where they, themselves, would not have to rely on briefs prepared from scanty libraries, but could resort to large and more voluminous and valuable

ones. The time will come when we shall not labor under this disadvantage, but it would be disingenious not to admit that it exists now. What occurs in this respect at the present time? The Supreme Court, (if I am not misinformed,) holds its sessions at different points in the State, but in the most important cases, the judges are constrained to postpone their decisions until they arrive in Detroit, where they can consult authorities pertaining to the principles involved and discussed. Therefore I conclude it would save time, trouble and expense, and give greater satisfaction to the bar and persons interested, to have the cases that are taken into the Supreme Court, argued and decided where such necessary facilities for the dispatch of business, and correct and prompt decisions exist.

Gentlemen contend that if the circuit judges discharge Supreme Court duties, it will require a force of at least ten judges at present, which must in a short time be increased to fifteen. In this I do not concur. I believe seven good, competent, industrious judges will perform all the necessary labors of the Circuit and Supreme Courts, and dispatch promptly, and to the satisfaction of the suitors and those interested, all the business of both courts. The business of the Circuit Courts has been facilitated by recent legislative enactments. The proceedings are expedited, and there is not so much machinery and delay as formerly. If the reforms introduced at the time the county court system was adopted had been applied exclusively to the old system, all the business might have been disposed of by the circuit judges. There never has been a fair trial of the merits of the system in this State. So long as it accomplishes its object in other States, I think gentlemen must attribute the evils they complain of to some other cause than the system itself. In New York and Massachusetts, and other States, it is not a mere experiment, but a system fully and fairly tried, and the profession is almost without exception warmly attached, and the people as much wedded to it. And yet the discovery has been made here that it is a very bad and a very unpopular system. What symptom of its unpopularity has been manifested? Certainly there are few indications of it exhibited here; and if

you search the journals and records of our Legislatures, you will find as few there. I contend that it is necessary that the supreme judges discharge circuit duties to prepare them for the correct decision of cases in banc. There may be exceptions to the rule, but they do not show the rule itself to be incorrect. They ought to mingle and come in contact with the people; see causes tried in the circuit courts; become intimately acquainted with all the business relations of life, and be constantly acquiring a knowledge of the world, in order to make them competent to discharge such high duties. One of the provinces of this court is, to give construction to the statutes and acts passed by the Legislature. Often their decisions, in effect, make law for our citizens, which becomes the rule and guide of their action. I must not be misunderstood as saying that they usurp the powers conferred solely on the Legislature. My meaning must be obvious; but to make it more clear and explicit I will give an illustration: A law is passed by the Legislature, the members thereof intending that it should have a particular meaning, but expressing it in such ambiguous language as makes the sense obscure. The proper construction of it is doubted, and finally a case based upon it is taken to the Supreme Court for adjudication. It decides that the language used, according to legal, and often plain, common sense interpretation, conveys a different idea entirely from that which may have been intended. In 1840 a law was passed relative to costs and fees. The intention was to supersede by it the law upon the same subject, which was said to be very oppressive. This intention was publicly expressed by those who proposed it, and every one who voted for it so understood it. After the Legislature adjourned, the question whether it repealed the old law was submitted to some of the judges at the circuits, who decided that it was cumulative; and costs were afterwards taxed under both laws. The object of the Legislature was to diminish costs and fees, but by the manner in which the law was drafted, according to the construction of the court, they were augmented. In many of that class of cases the court must establish, for the good of society, a rule; and it is therefore of great importance they

should have the necessary knowledge and information to be competent to do it.

The system proposed as a substitute for that under consideration, is similar in many respects to that of the United States. Nearly all familiar with the operations of that system bear testimony to its worth; and there are at the present day no advocates for its unqualified change. The slightest advance towards it creates alarm and distrust in the public mind. In 1848 an effort was made to relieve the Judges of the Supreme Court of the United States for a short time from the necessity of attending any of the terms of the Circuit Court, in order that they might have more time to devote to the discharge of their duties as Judges of the Supreme Court. It was said the calendar was burthened with cases, and there was no other possible method of speedily disposing of them. It was looked upon by many with suspicion, and as an entering wedge to the final and complete separation of the Circuit from the Supreme Court. All who spoke to the question deprecated this, and admitted the importance of the judges discharging circuit duties. Those in favor of the temporary relief placed it wholly on the ground of the immediate and pressing necessity of the case. After a most spirited debate in the Senate, it was defeated. The sentiments of one of the Senators, and a distinguished jurist, [Mr. Badger,] are so applicable, and so forcibly and eloquently expressed, that I beg leave to read extracts to the committee from his speech. He said "it is absolutely essential that judges of every court of last resort should be judges constantly in the habit of trying causes in the court below." In the most emphatic terms he condemned this independent system of judges, "not seeing the rules of evidence practically applied to the cases before them—not seen by the people of the United States—not known and recognized by them—not touching them, as it were, in the administration of their high office—not felt and understood, and realized as part and parcel of this great popular government—but sitting here alone—becoming philosophical and speculating in their inquiries as to the law—unseen final arbiters of justice—issuing their decrees, as it were, from a secret chamber—moving invisibly amongst us, as far as the whole

community is concerned—and losing, in fact, the ability to discharge their duties, as well as that responsive confidence of the people, which adds so essentially to the sanction of all the acts of the officers of the government." Now, sir, every man of experience, whose mind is not biased by interest or prejudice, must concur in the views of that distinguished Senator.

Mr. HANSCOM—He was John Tyler's Secretary of the Navy.

Mr. McCLELLAND—He was Secretary of the Navy—but I care not whether under Gen. Harrison, Mr. Tyler, or any other President—it could not detract from his ability as a lawyer. No one, whose opinion is worthy of note, will say that he is not one of the ablest lawyers in the Senate. But I rely not merely on his character as a jurist on this question, but on the intrinsic force and the truth of his remarks. His opinions were expressed before the whole Senate, and I believe no one attempted to controvert them on this point.

This was not the first time this subject was brought before Congress. The contest was commenced under the elder Adams. The two courts were separated, and the connection that had before existed was severed. But the independent system was of short duration. The popular feeling was against it; and by the influence of public opinion the old system was soon restored.

Mr. GOODWIN—Was that on account of the midnight judges?

Mr. McCLELLAND—Suppose it was; how does that effect the case, and why has the system been permitted to remain ever since undisturbed?

The question, it is true, was agitated under the administration of John Quincy Adams, in 1825, and another effort was made to separate the two courts. It was met with firmness; and after a severe struggle and most mature consideration, the scheme was signally defeated. Here, then, we have a model, the admiration of distinguished jurists, sanctioned by most of the ablest statesmen of our country, and relied upon by the people as one of their best and safest institutions—against which not a murmur is heard. Is it to be rejected by us?

In England it has always been considered necessary that judges of the king's bench, common pleas and exchequer, should discharge *nisi prius* duties. The duties and powers of our circuit judges are more comprehensive, yet the reason why the duties are discharged by both classes of judges is the same. The experience of England on a question of this kind should not be disregarded by us. The decisions of her courts are very able, and their authority generally binding in all our courts. The ability, learning and experience of their judges will not be questioned; and they are, with but few exceptions, schooled in the *nisi prius* courts.

In the State of New York, previous to the adoption of the constitution of 1821, the major part of the most important of the judicial business was done by one chancellor and five supreme judges holding Circuit Courts, and being *revisors of the legislation of the State*. They kept the docket clear, besides attending to their other duties. This system was changed in 1821, not because there was any complaint against the judges, as such, nor on account of any objection to the system, but on the ground that they meddled too much with the politics of the State. This created an excitement; the judges became politically unpopular, and the system was abolished to atone for the political sins of which the judges were charged to have been guilty. If the charge of log-rolling, which has been made here, be true, this may be the cause of the unpopularity of our system in the eyes of those now opposing it. I hope they will separate the judges from the system itself, and not abuse it because the judges do not satisfy them.

In Massachusetts a similar system has obtained for many years, and met the decided approbation of the bar and the people of that State. You hear not a whisper against it. Even there they do not consider it too democratic. Of the superiority of the system we can judge from the reports of the decisions made by the judges. I ask gentlemen on the other side where are there such uniformly good and standard decisions as those of the Supreme Court of the United States, and the State of New York previous to 1822, and the State of Massachusetts? You find them in nearly every law library, no matter how

small, and they are almost invariably cited in all the courts of the country as good authority.

If you will recur to the debates of the Convention of the State of New York, in 1846, you will find a great unanimity of opinion among the jurists that were in it upon this subject. I do not remember that one of them dissented from the general expression that the judges of the court of last resort should discharge, or should have discharged, circuit duties. It is true the Convention adopted a compromise plan. But, even now, four of the judges are fresh from the circuits.

The gentleman from Wayne [Mr. BACKUS] inquires why the independent judges—supposing they are confined to their closets—become more technical and speculative than others? This is a strange question to be propounded by one of his experience. What do men who confine themselves to their books, and do not mingle with the people, know of the world? How can they obtain that knowledge which every man should possess to discharge his duties faithfully to his country and his fellow men? Take any professional man who confines himself to his closet and devotes all his time to study, what will he know of the world around him? This is the observation of every practical man; and I am amazed that a gentleman of his sagacity should have made such an inquiry.

It may with safety be urged that more talent and judicial capacity are required in the judges of the circuits than of the Supreme Court. There all the characteristics of a good judge are brought into requisition. In the Supreme Court cases are usually well argued. The lawyers take time to examine the principles of law, applicable to the case, and prepare briefs. After the cause is submitted, if any important principles are involved, the court takes its own time to decide and give its opinion. But in the Circuit Court, questions of great magnitude frequently arise in the trial of a cause, and the attorneys engaged cannot be prepared to elucidate them. The judge must decide promptly, and has very little time given for reflection or examination. There are comparatively few cases taken to the Supreme Court from the circuits. The Circuit Courts decide finally a very large majority of the cases tried, and hence

the necessity of placing the best judges there. The people are more intimately connected with them, and more benefitted by them, if confidence is reposed in the courts over which they preside.

In the States of Louisiana and Mississippi, the judge of the Supreme Court, in whose circuit those States lie, seldom presides. The cases are tried before the district judge, and what is the consequence? Why, although he is considered an able man, the number of cases taken thence into the Supreme Court is double as many as those of the great State of New York. This is undoubtedly owing to the absence of the Supreme Court judge. A mere name sometimes has a charm. Every body has such a regard for the Supreme judicial tribunal of the United States, and of a State, that more respect is generally paid to one of its judges than to one of an inferior tribunal. His opinion may not be as sound as that of any other jurist or judge, but still it is the opinion of one of the judges of the court of last resort. From this we may with propriety argue that, by the independent system, more cases would be taken up than by the other, and we think this position will not be controverted. It must be admitted, and we might safely say the number will in all probability be doubled, perhaps quadrupled. Who will be benefitted by this increased resort to the Supreme Court? Certainly neither the suitor nor the people. I would not say any thing that could by possibility be tortured into any imputation upon the legal profession; but I may be permitted to say that, in my judgment, they alone would be benefitted by this system.

Under the system in New York which superseded that which existed previous to 1821, the cases accumulated so rapidly that the bar and the people finally determined to abolish it and adopt a different one—one that in some respects is similar to our own. If gentlemen will examine the speech of Mr. Hoffman, they will find this enormous increase of cases assigned as one of the most prominent causes for calling that convention.

It is a matter worthy our inquiry, how long this Supreme Court will probably be necessarily in session during the year. Mr. Hoffman stated in the New York Convention that the court of last resort there,

should not be in session more than three months; and surely the legal business of this State must be small in comparison with the judicial business of that State. I have examined the reports of the Supreme Court of this State, and if we are to judge from them, they have decided annually about twenty-nine cases. Judging from the character of these cases, one would suppose they would not have consumed much time, examination or reflection.

In 1844, the judges of the Supreme Court of the United States were relieved from attending one term in every year of the Circuit Court. The time for the commencement of the sessions of the Supreme Court was also changed from the second Monday in January to the first Monday in December. Before, they sat about ninety days; now, about five months. Then, they decided about fifty cases; now, no more. And it was the opinion of Governor Ashley and Mr. Badger, publicly expressed in the Senate of the United States, that they should have decided one hundred and forty. The less men have to do, the less they will generally do.

But, how is the time of our Supreme Courts sometimes occupied? There is no limit established in this State to the arguments of counsel, and little restriction upon them. It is said that in the Supreme Court of the United States an attorney consumed a whole day in proving that the people were sovereign; and the next, that therefore they had a right to form their own constitution. Is such a waste of time to be permitted? And yet, if I am not misinformed, the time of some of our courts is as unprofitably employed. Is it uncommon for some of our lawyers to talk to our Supreme Court as if the judges were ignorant of the elementary principles of law? A gentle rebuke occasionally from the court might perhaps not be amiss; and an intimation that being elevated to that high station, should be considered proof that they knew something, might be of service to some of the profession. They should do business in a business like manner, and not let extreme courtesy interfere with the faithful discharge of their duties.

If the independent system be adopted, the time has not arrived when it can be carried into successful operation. The bar of this State is most respectable. In the

profession, in the aggregate, there is much legal acumen, ability, practical knowledge and integrity, but it must be confessed there are few really distinguished lawyers in the State. If we look around us, we will find but a small number among us who we believe would make good supreme judges. There are many young men who are rapidly rising in the profession, and with practice and experience will be its ornaments. Train and school them in your circuits, and you may ere long have the material. A man may be a distinguished lawyer, and yet be entirely unfit for the bench. His disposition, temperament, turn of mind and habit of thought, may disqualify him. To be a good judge requires a combination of qualities rarely to be found.

If you establish your independent system, is there no danger that jealousies will be excited and grow up between the circuit and supreme judges. The Supreme Court reverses the opinions of the circuit judges, wounds their pride—they are dissatisfied and believe they are as competent judges as those of the Supreme Court; and this may often be the case. They mingle with the bar and the people, and if so disposed, can readily create a sympathy in their favor. This feeling would be increased by the aspirations of the circuit judges. Their ambition would be to supplant the others, and such being their aim, might they not adopt the means that would be at hand, and under ordinary circumstances how many of your independent judges would be re-elected?

The gentleman from Wayne [Mr. BACKUS] speaks of "judicial sympathy," which is a mere creature of his imagination. But he made a grave charge, and one that deserves notice. He said that the "log-rolling system" had sometimes been used in the Supreme Court. Now, I know the men who constitute that tribunal, and have had and still have too much respect for it to credit this assertion. The respect which each must have for his own character must preclude such an idea. I have been credibly informed that the judges of that court most scrupulously avoid taking part in cases decided by themselves upon their respective circuits.

How does the gentleman account for the many decisions of the circuit judges that

have been overruled by the Supreme Court? I understand that at its recent session at Jackson, more were added to the list, and this shows clearly that occasionally at least the judges lose their "judicial sympathy" and "pride of opinion." In my judgment, if the judge making a decision which comes under the review of the Supreme Court, has any delicacy of feeling, or a correct idea of his duties, he will not participate in the decision of that court. But I place no confidence in such charges, and will dwell no longer upon them.

It is said there is a great deal of dissatisfaction with our judicial system existing among the people. As I observed before, it is not with the circuit system, or it has not come to my knowledge. But admit that it is so—can it not be accounted for? Suppose some of the members of the bar become dissatisfied with the opinions of the judges; they can easily produce excitement and discontent. The gentleman from Oakland [Mr. HANSCOM] says the fault is not with the judges; that they are arduous in their labors and discharge their duties faithfully. In this he is fair and magnanimous; but it does not coincide with the opinions of others who have addressed the committee; and from what they have said we would be induced to believe that many of the bar are dissatisfied with the judges themselves. If it were otherwise, there would be no difficulty in sustaining the judges and the system, because there is not much discontent among the people; and we may say what we please, the influence of the legal profession is felt and strongly felt everywhere. Let it manifest a favorable feeling towards the judges if they entertain it, and all will be well.

The article under consideration fixes the independent system and places it beyond the reach of legislative action. Adopt it and you will increase the expenses of the State without any corresponding benefit. The expense has little to do with the question, for our object should be to establish a good judiciary system, let the cost be what it may. But I would not throw away one in which I had confidence, for another more expensive and less useful. Make your circuit judge work, and there is no danger of the judicial business of the State being delayed or retarded. But take the other plan, and you will have an inde-

pendent set of judges upon your supreme bench, which will soon be denominated the "sleepy court," having but little of their time occupied; and a set of circuit judges who will in a few short years look upon themselves and be looked upon as "inferior judges." After the expiration of the first term, and perhaps sooner, few men who are competent to discharge such duties can be induced to occupy their places. Adopt the amendment, and if one system, after a fair trial, does not answer, the other may be substituted for it. In the meantime, the suitors and the people will have the benefit of all the talent, learning and experience that will be in the Circuit and Supreme Courts.

Mr. HANSCOM said—Mr. President, I do not rise to advocate at this time the adoption of the report of the majority of the judiciary committee, of which I leave the honor to be a member. I may do so before this question shall come to a final vote. I stated the other day very briefly my reasons for favoring the system reported by that committee, as contradistinguished from the one now in existence—proposed, as it is now proposed, to enlarge it—in short, to diffuse and extend an acknowledged evil.

But, sir, I must proceed to meet and, as far as I can, answer the arguments of gentlemen who assume that the system we advocate will operate prejudicially to the interests of the people of the State.

First, the gentleman from Monroe [Mr. McCLELLAND] assumes that the judicial business of the State is on the decrease, and that it will continue to grow less for years to come. I say, sir, the fact is different; and I appeal to every member of the bar, and to every gentleman on this floor, who knows anything of the business in the courts of this State, to join me in the refutation of the statement. I concede that the years 1836, '37 and '38, and perhaps '39 and '40, were years prolific in furnishing business for our courts. The era of speculation passed away, and business has assumed its ordinary channels; and under this salutary influence we have had the opportunity of seeing the workings of the proposed system, under an ordinary state of affairs—such as will exist in all coming time, except when deranged by the wild and speculative mania incident to

every business and commercial country. Now, sir, for the past six or eight years, it is matter of fact that litigation has been on the increase in our State; and who doubts but that the increase will continue so long as our commercial prosperity is unimpeded? The history of every civilized State and government, in ancient or modern times, most fully demonstrates the truth of this assumption. But, says the gentleman from Monroe, the practice is too intricate—too much special pleading. Now, why not try all cases, says he, on the merits? I ask him, why not? And this state of things complained of has existed or grown up under your present judicial system, and to remedy this glaring evil it is proposed to continue this very system. I have seldom listened to more far-fetched or extraordinary propositions. Unite equity and law—get rid of all technicalities, says the gentleman from Monroe. In this he has not even the merit of originality. Washtenaw's celebrated Senator, Allen, has forestalled him in his race for judicial reform. The history of that reformation is before us, and if my friend from Monroe desires a recurrence of the era of 1836 and '37, he must obtain it without my sanction.

But, says the gentleman, the people charge that laws are made by lawyers, and a great prejudice has been induced; great hostility exists against lawyers among the people. Sir, who has induced this feeling? The hedge lawyers, the quarelling demagogues, the ignorant and knavish, the vagabond and unprincipled members of that profession. There are, sir, such even in the profession—they are in all the professions—they degrade and disgrace all, from the highest to the lowest—all trades and vocations have their quota of just such materials. But I must own my surprise at finding the gentleman from Monroe pandering to this class of men; and for the sake of courting an evanescent and mushroom popularity with that class, so far forgetting himself as to thrust at the profession to which he belongs. I am an humble member of that profession, and of it I am proud. Its interests are common to those of all other classes of community—what depresses and injures the one, depresses and injures the other. Away, then, with these attempts to create hostility

ty as between different classes, professions, trades or occupations in the community.

But, sir, let me proceed to another objection to our proposed system. It is this: the judges should mingle among the people in order to get public opinion, to hear public sentiment, so that they may know how to decide. Who, sir, can tolerate such monstrous propositions as these in an assembly of intelligent men? Why, sir, fairly stated, it amounts to this, and nothing more or less: that the opinions of an excited mob, the passions of the populace, are to constitute the rule of decisions in your courts of justice; and that, too, in your court of last resort. I will not say that it is the very concentrated elements of demagoguism; but I do say that such sentiments, emanating from any man on this floor, except the gentleman from Monroe—for whom we all entertain the highest respect—would have deserved to have been scouted out of the Convention without the courtesy of a hearing. What constitutes genuine freedom? The absolute supremacy of the laws. It is the sheet anchor of the citizens' rights, of the stability and perpetuity of the institutions under which we live. And yet it is gravely proposed that our judges of the court of last resort must forego and forget all these considerations, and decide as may be dictated by what they choose to call public opinion—follow, in the legal adjudications of your highest judicial tribunals, the fluctuations of what the gentleman calls public opinion!

I concede, sir, most cheerfully that the progressive spirit of the age—public opinion, once become universal and fixed, does have and should have an influence upon the decisions of courts; it induces progression and change in all the departments of government—executive, judicial, and legislative. Even now, among the grave charges urged against our existing system, none, perhaps, has gone farther to bring it into disrepute than the very one that is now proposed to be perpetuated and extended.

Another objection, and one quite inconsistent with the former, is also urged by the gentleman from Monroe. It is that we propose to compel the Supreme Court to hold terms in each of the judicial circuits. Our opponents think one or two of the principal points in the State, once in

each year, would be an improvement. It would, no doubt, contribute much to the ease and quiet of the judges; but whether the bar and people of the State are to be as well commoded when compelled at great and ruinous expense to traverse the whole State to find a Supreme Court, I leave them to answer. One of the effects of their plan is certain to reduce the country bar to a sort of vassalage or dependent position upon that of one or two important points where this court is held. They contemplate a grand system of concentration; we propose to diffuse the administration of justice over the State.

But, says the gentleman, we cannot get good lawyers, without adopting their plan, to go upon the bench. This is a novel objection, and I presume no one knows how to answer it, for the simple reason that it rests upon neither fact, experience, reason nor argument. A reference to the Supreme Court of the State of Indiana would be a sufficient refutation, if any were needed. Again, the organization of the federal court is cited as evidence in favor of the circuit judges holding the Supreme Court. The points of difference are so many and great, the want of analogy so complete, that it can establish nothing. The judges of the Supreme Court of the United States are appointed, and that too for life; ours are elected by the people, and that too for short terms. They sit in banc at the seat of government only, and only once in each year; ours are to hold terms in each judicial district of the State, and more than once, if the public exigencies require it. But I will reserve any extended discussion of this branch of the subject to a future day.

Then comes a broad general allegation that by our system lawyers are to be benefited, and that it will induce an increase of litigation. This I regard as a species of *ad captandum* argument, designed to tickle the popular ear—rather for others than those upon this floor; but, if I mistake not, he misjudges the intelligence of the people of this State, who attempts by such means to advance either his own popularity, or aid the cause he advocates.

It is true that it might be with propriety admitted that the profession in the interior of the State would be injured, and by a necessary consequence, the people of those portions of the State, also. Their system

benefits the bar at some one point, where this court of last resort is to be held, but it does so at the expense of all the rest. But, says the gentleman, the fault is, lawyers talk too long in court—the court has been too dull. I concede, for the sake of the argument, the truth of it; and yet he is attempting to perpetuate for all coming time, by constitutional provision, the very order of things under which these evils have grown up and been perpetuated. It is, to say the least, difficult to see the consistency of his reasoning.

One word more as to the impossibility of finding in our State competent men for Judges of the Supreme Court. If this be true, it should be seriously considered; but as we have the assertion of the gentleman only to sustain it, let us look a little farther at his argument. Earnestly does he, in the next phase of his speech, labor to convince us that a far higher order of talent is required for Judges of the Circuits than for the Supreme Court; and yet he anticipates no difficulty in procuring the men just fitted to perform those duties.

I leave the gentleman to his own explanations; having already detained the committee too long in answering so extraordinary an argument upon the grave subject of the judicial system as that made by him. I was unwilling, however, to let the occasion pass without some attempt at showing its transparencies and crudities.

Mr. BUSH said he had not been favored with a professional education, and was not prepared to discuss this question; but he had made up his mind on the subject. He believed the system proposed by the gentleman from Monroe would answer the wants of the country; and believing so, he should vote accordingly. The gentleman from Oakland has pointed to difficulties in the proposed arrangement. He says that the judges have not been able to do their duty on account of the multiplicity of business; that the system amounts to nothing. But, sir, if he would look back to the time when the whole business part of the community was prostrated, he would see what our difficulties grew out of—the difficulties of the whole commercial world—the evils that helped to fill up the calendars of the courts, and which they have not yet been able to wipe away. But they are passing,

and the arrangement of the courts, as proposed, will entirely wipe them out.

The gentleman from Oakland [Mr. HANSCOM] takes exceptions to the statement of the gentleman from Monroe, [Mr. McCLELLAND,] who says the Circuit Court should have as much talent as the Supreme Court. Sir, does not common sense sustain that opinion—that a court of the first resort should be able to decide with experience and according to law? It should be a competent court. Who would wish to have a case go to an incompetent court, and then have to appeal, after an expense of \$200, to the Supreme Court? Place able men as judges in the Circuit Courts, and there will be very little business for the Supreme Court to do. He trusted the time would come when the people would be satisfied to have every thing done in the Circuit Court. Then is it not necessary that the best talent should be taken and placed in those courts? If we take an inferior class of men, and place them on the bench of the Circuit Court,—and we may be under the necessity of doing so, if we take them in the circuits,—the people will have no confidence in the courts, and cases will be taken up, and expenses incurred.

Mr. B. said he knew nothing about courts; he had never had any thing to do with them, and he hoped he never should; but the business that had arisen out of a commercial crash had diminished. We had a different state of things now. Believing that difficulties would arise, and that the expenses of the judiciary department would be materially increased by the establishment of the independent Supreme Court, he should go for the amendment offered by the gentleman from Monroe.

Mr. GOODWIN said he could not let the vote be taken on so important a question, without offering some remarks; and he would beg the indulgence of the committee while he did so.

In my view, sir, (said Mr. G.,) few more important topics can be presented to the consideration of the committee or the Convention. The people require that an adequate system shall be permanently established in the State. That there have been evils in the administration of justice in this State, all admit; and the importance of the subject must be conceded by all. There is none that more deeply affects individual

rights, and the interests of the community in general; it comes home to every one; it affects every man's personal rights of every description. On the protection, the efficient protection of those rights, rests the confidence of the people in the government, and the institutions of government.

The gentleman from Monroe [Mr. McCLELLAND] seems to think that the existing evils are of a temporary character; that they arose from causes which no longer exist. Such is the opinion expressed also by the gentleman from Ingham, [Mr. BUSH.] They think the business will decrease, and a much less judiciary force will hereafter be necessary.

Is this the fact? It is true, sir, that during the financial convulsion which has been alluded to, the business of the courts increased largely; but the bankrupt law which was passed by Congress wiped out much of the business that was then in the courts. This law was passed in '41, it took effect in '42, and in '43 this was the result—from that time down to the present the particular business that arose from the cause alluded to has mostly ceased. But how was it still with our courts? Was it not a fact that the business was so increased that great delays existed? It was so much the case in some of the counties that in 1846 a remedy was proposed, and the Legislature established County Courts. There was then a separate Court of Chancery, and in four of the counties of the State a separate Criminal Court. It was then sought to relieve the judicial tribunals from the pressure upon them, and enable them to dispatch with facility the business before them.

It appears to me, then, (said Mr. G.) that the gentlemen from Monroe and Ingham are under a mistake in reference to the business of the courts being diminished. That growing out of controversies relating to property and individual rights, has, on the contrary, increased. Look, sir, at our increasing population and the growing business of the country.

Gentlemen refer to the courts of the United States, and the judiciary system of the federal government, as an example for that which they propose. But, sir, the circumstances are entirely different. Their business is small compared to that of the courts of the States. They do not admin-

ister merely a uniform law of the Union, but laws of the different States; and decide cases arising under them within their local jurisdictions, between citizens of the different States, as well as those arising under the constitution and statutes of the general government. It may, therefore, have been deemed important that the judges should go within the States and become acquainted with their local laws and practice. This is a circumstance that does not exist within the States themselves. The Supreme Court of the United States, in its appellate capacity, acts without the jurisdiction of any State, in the capitol of the Union, and the objection suggested may exist as to it when it cannot in reference to any State tribunal.

Let us look at the two different systems proposed. The one reported by the committee contemplates the establishment of a Supreme Court, the judges of which shall not exercise the functions of circuit judges—that a different set of men shall compose the Circuit Courts; that the Supreme Court shall be mainly a court of errors and appeals, and the Circuit Courts have general jurisdiction, civil and criminal, in law and equity. The other, that the same men shall perform the functions and exercise the powers of both. As to the number of judges, much need not be said respecting it—the same number will be required, whichever system is adopted. If one system is better than the other—if justice is better administered and in a more satisfactory manner, the amount of additional expense, if any, will be of little consequence.

It seems to me that gentlemen are misinformed in regard to the amount of the judicial business of the State. In 1846, as before remarked, the Court of Chancery and the Criminal Court were abolished, and the County Court system established. There were at that time four Judges of the Supreme and Circuit Courts. The Chancellor and the Judge of the Criminal Court added, made six. These courts being abolished, all the jurisdiction and powers possessed by them were vested in the Circuit Courts; but in consequence of the increase of business that was thrown upon them by this increase of their jurisdiction, the Legislature found it necessary at a subsequent session to increase the

number of judges from four to five. Did not the business of these courts increase largely; was it not still increasing, and did we not find the amount of business employing the Circuit Court judge a considerable portion of his time? Such was the fact; and this committee this morning, on the proposition submitted by his colleague, [Mr. BAGG,] in regard to the establishment of County Courts, had decided against that plan. He took it, then, that County Courts were no longer to exist; their duties were to be transferred, and their burthens thrown upon the Circuit Courts.

It seemed to him that it would be difficult, if not impossible, for a Supreme Court, such as was proposed by the gentleman from Monroe, [Mr. McCLELLAND,] to transact the business, in view of the other changes contemplated in our judiciary system. What did the gentleman's plan contemplate? To multiply the number of judges in order to remedy the difficulty. The gentleman placed the number at seven. Would seven be a sufficient judicial force, after you had abolished the County Courts, and transferred all their business to the Circuit Courts? Would seven be sufficient, and could these judges at the same time discharge the duties of a court of final resort, and give causes in that court that cool and deliberate examination and accurate investigation which, in deciding on the rights of parties, was to be sought for and should ever be found in this Court? It appeared to him not. It appeared to him that the persons who were to exercise these functions must be more than men to perform them in the manner in which they ought to be performed. It was urged that the business of the Supreme Court could be diminished. He thought otherwise—that after the system was put in operation and should acquire the public confidence, the business would increase also; that it would be an advantage to the bench that the judges should have some time for reading and study; and that if for a term such should be the case, it would be all the better for them and the public interest. But it appeared to him that the condition of things in this State would not warrant such a conclusion, or such a system as is proposed. He did not know how it might be in the county of Monroe; but his expe-

rience told him that it would not be efficient and practicable in many other portions of the State.

If we adopt it, we would have one similar in effect to the one under which we have had all these difficulties and delays. We would have the difficulty adverted to by his colleague, [Mr. BACKUS,] There would be Circuit Courts sitting at different places in the State; the term of the Supreme Court would arrive, and the judges would have to leave an amount of business unfinished in order to transfer themselves to the court of final resort. Then, the decision of causes in that court would in turn be hastened by the necessity of the judges of that court to go on circuit. Thus you would have the one tribunal crowding upon the other, and the business of each successively retarded, or hasty and immature and ill considered decisions. He deemed it necessary for the dispatch of business that the courts should be separate; the Circuit Court judges attending to their prescribed duties—the Supreme Court hearing and deciding cases of appeal.

Again, it is urged that the public exigencies seemed to require that four terms in a year should be held in many of the counties. That ought to be effected by any system which may be established; but it will not if you take the supreme judges and require them to do the duties of circuit judges, as proposed by the gentleman from Monroe; and if attempted, the duties will be performed with still less care and deliberation, or will be attended with more of the delay which has been so much complained of.

If the business is done precipitately, it cannot be well done. Gentlemen seem to forget the rapidity with which our State is growing, and that the increase of its population and of our commerce add daily to the business of our judicial tribunals. By the division of duties, you will have the business done, and well done; while, by the other plan, you will have it left undone, or it will not be done in such a manner as to give satisfaction.

I come now to another argument, which seems to me a strong one, against the plan of the gentleman from Monroe, [Mr. McCLELLAND,] It is that by increasing the number of judges, you will lessen the responsi-

bility of each. By devolving a duty on a large body of individuals, you diminish that sense of responsibility which each should feel as to its performance. We are establishing a system, I trust, not merely for a year or two, or six years. When the gentleman would limit his proposed system to six years, on account of the changes that may occur, he seems to me to yield the entire question. We should now establish a system to be permanent, and prepare it accordingly. That is what the public exigencies, and I believe the public voice, require. When you multiply judges, and take away that sense of individual responsibility which they would otherwise feel, the natural effect is to render them less cautious, less careful in their judicial investigations. Judges are but men; and the same circumstances that operate on others operate on them, however able they may be, or however conscientious. With such a Supreme bench as reported by the committee, consisting of three or four men, under the responsibility which they must feel resting upon them, you will get better and more reliable decisions than you can get under the system which we now have, and which it is proposed by the gentleman from Monroe only to extend.

I come now to another proposition, on which the gentleman and myself are at variance. It seems to me that, upon the plan reported by the committee, of separate courts, you will have abler and better men in both, on account of the attention which each will devote to the particular sphere to which he is confined; the improvement of each in their respective spheres will be the greater. You will seek for both tribunals men the best qualified to be found in the State; men who are especially adapted to their particular duties. Such men, each attending to the appropriate duties of his sphere, will become better qualified for them than if their attention was divided by the system proposed—the existing system enlarged.

In the Supreme Court, when vacancies occur, you will resort, to supply them, to the Circuit Courts, and select men who have there given evidence of ability and qualifications for the Supreme tribunal.

The gentleman has remarked that you will have the better judges if they hold the courts at *nisi prius*, and you adopt that

system. Under that system, where it has existed, there have been, no doubt, able judges. The term, however, as he uses it, is inappropriate. It is not applicable to the system he proposes. Under that system, the causes originated in the court in banc. All the proceedings were there had, except that when an issue of fact was made, that issue was tried by one of the judges holding a court of *nisi prius*, as it is termed, for that purpose. When the verdict was rendered, it was returned by the judge to the court in banc, where all further proceedings were had, and the final judgment given. Our Circuit Courts (the same system which the gentleman proposes) are courts of original jurisdiction, and all the proceedings in a cause are had in them, from the commencement to the final judgment.

Johnson's reports of the decisions of the courts of New York are referred to as of high character, and are said to be quoted with approbation. True, sir, they are able reports; and the men on the bench of the New York Supreme Court, during the period of those reports, were able men, and men of learning. They were giants in intellect; and had they filled places in a judicial tribunal under any system, their decisions would have been looked to with respect. But that, sir, was not the court of last resort. They had also their court of errors and appeals, and a court of final review; also a separate court of chancery. But what was the result, even at that early period of the history of that State? The business so accumulated that the convention of 1821, for the revision of their Constitution, provided for separate Circuit judges, to hold the courts of *nisi prius* andoyer and terminer, and the Supreme Court in banc, to be held by three different judges. They also retained the court of errors and appeals as a court of final review. So far, then, as regards the State of New York, the analogy does not hold good. The example is, in fact, against, rather than in favor of, the gentleman's proposed plan. Well, sir, under that system, what followed? Why, sir, they at first placed in the Supreme court, men who, though able men, had not experience, and not much confidence was placed in their decisions; but they had not been long there before they did acquire the confidence of

the people, and their decisions were regarded with high respect. And I think it will be conceded that the later reports of the decisions of that tribunal are deservedly quoted with high approbation. Under that system, sir, from time to time, as vacancies occurred on the Supreme bench, judges were appointed to it from the Circuit Courts, who had in these evinced learning and ability, and became distinguished. I have now in my mind one who, from a Circuit judge, rose to the post of Chief Justice, and now occupies, and with distinguished ability, the eminent position of a Justice of the Supreme Court of the United States.

But, sir, follow up the history of the jurisprudence of that State, and see what has more recently transpired. Under that system, even with the separate judges for the circuits, and their other judicial tribunals, business was found so to increase and load them down, that further changes were necessary; and in the late revision of the Constitution of that State, they have established what they call a Supreme Court, with thirty-two judges; but in fact, eight courts, in as many different circuits, with four judges each; also a separate court of appeals of eight judges, four elected by the people of the State at large, and four taken from those of the Supreme Court having the shortest time to serve—the terms of office of the latter being so arranged that eight go out of office every two years. The former, the court of appeals, is only a court of review; it has no original jurisdiction, and of course its judges do not hold circuits or *nisi prius* terms. It is in fact what it is proposed that our Supreme Court shall be by the report of the committee on the judicial department. And yet gentlemen urge upon us the example of the State of New York in favor of their system. If it is so important that judges of the court of final review should hold circuits, or *nisi prius* terms, why did not that State, with her experience as to both systems, preserve that feature? And why should we, while uniting all the jurisdictions—civil, criminal, law, and equity,—with our growing population and business, adopt a system which the people of that State long ago found inadequate, and which has been deemed insufficient for the purposes of justice here? Sir, under either system, a judge, endowed

with intellect, who will honestly devote himself to the high duties of his office, examine his books, investigate causes and study the laws, will improve as time advances, and command the respect and confidence of the community amongst whom he has administered justice; and when he departs from the scenes of time, his memory will be dear to them, and they will drop the tear upon the green sod that covers his remains.

The idea has been thrown out that under the separate system you will have the greater candor and impartiality in the Supreme Court; that there will be no common feeling to suppress each other's decisions, and no disposition to overthrow them, from rivalry or jealousy. This has been commented on in the argument read by the gentleman from Kent, [Mr. Church,] of Mr. Bayard, of Delaware. But as to this, every man must judge for himself. It is not only essential that justice should be administered justly and impartially, but that the people should entertain the opinion that it is so.

There is another view in favor of the system reported by the committee on the judicial department. We propose to elect judges by the people. This, in my judgment, is right, if you provide that their terms shall expire successively at different periods, and make these of such duration that they shall not be looking forward to the close, and calculating on a re-election constantly, or all at the same period. This might disturb the due exercise of their functions. It is the sovereignty which elects the other two branches of the government; and why not the same sovereignty this? And in electing your court of last resort, should it be in districts or by the people of the whole State? Your circuit judges should be elected in the circuits. If the judge in the court of last resort is to settle the law which shall govern in future, is it not essentially important that the people of the whole State should have a voice in his election? And is this not right in principle? Obviously so. If you have a Supreme Court from the circuit benches, judges elected by the people of small divisions of the State will not only unite in passing upon causes arising in other circuits which have not participated in their election, but in finally settling the

law in the whole State. A person may come from a quarter where there may be local prejudices. There may be cases in which, deciding honestly, he may have made enemies; hence he should be elected by the whole people. Thus he will be free from local influences, and private and personal partialities or animosities will have but little influence in his election. This is important, sir, and unless you adopt the separate system, you will elect in circuits. The people, as to their circuit judges, will require them to be elected. And the people of the whole State will have the opportunity of participating in the selection of but one of the court of last resort. Again, the people of the State, for this tribunal, should have the range of the whole State for selection, to avail themselves of the best talent for the station to be found within it. This reason has been with me a cogent one in bringing me to the conclusion at which I have arrived on this important topic.

I ask every man to hold up the two systems side by side, and ask himself which will be the most efficient, prompt, and satisfactory in its results. As to the experience of other States, I have a word to say. The systems that have been adopted in the Western States have been mainly in accordance with that reported by the committee on the judicial department.

At the request of Mr. VAN VALKENBURGH, Mr. GOODWIN gave way for a motion that the committee rise; which was carried.

The Convention then adjourned.

Afternoon Session.

The Convention was called to order by the PRESIDENT.

Mr. MOORE submitted the following additional sections to the article entitled "Judicial Department," which were referred to the committee of the whole.

Sec. —. There shall be elected in each of the counties of this State one county judge, who shall hold his office for four years, who shall hold the County Court and perform the duties of the office of judge of probate.

Sec. —. The County Court shall have original jurisdiction in all cases, civil and

criminal, in law and equity, and appellate jurisdiction in such cases as the Legislature shall provide.

Sec. —. The county judge shall receive an annual salary, to be fixed by the board of supervisors, to be paid by the county.

Sec. —. The county judge of the county is authorized to hold the County Courts for any other county in the State.

On motion of Mr. BACKUS, the Convention resolved itself into committee of the whole and resumed the consideration of the article entitled "Judicial Department," Mr. Cook in the chair.

The committee resumed the consideration of Mr. McCLELLAND'S substitute for section 2.

Mr. GOODWIN resumed his argument in favor of a separate Supreme Court.

He was afraid he had occupied too much of the time of the committee already, in giving his reasons for preferring the report of the committee on the judicial department, but with their indulgence he would again advert to the proposition of the gentleman from Monroe. It is that the Circuit judges shall be the judges of the Supreme Court, four of whom to constitute a quorum. Though the number may not be fixed, he supposed the Circuit Courts would require seven judges, and he understood that number was contemplated for the business. The county courts to be abolished. Under the system proposed by the committee on the judicial department, was a Supreme Court with separate judges; and the County Court business to be transferred to the Circuit Courts, which should hold their terms in each county three times a year. Here are the two systems, side by side. We have 31 counties in the State, in which, by the present judiciary system, courts are to be held; and as more counties are to be organized, more must be added. There will be shortly four more in the lower peninsula, saying nothing of the counties on Lake Superior.

Now, sir, by the system reported by the judiciary committee, you have five Circuit judges, with an area of five counties to a circuit. Your terms held three times a year, will be fifteen terms to a circuit. In large counties it is known they frequently extend to a month or six weeks; in the new counties less time is required. Now, one object of the committee was, that the

terms of the Supreme Court should be held so often that a case going into it by a writ of error, or by other means, might be decided promptly; that there shall be places in each circuit in which that court shall be held twice a year, so that cases may be heard promptly as they arise. Now, sir, the operation of the present system is that you have in effect, for final decisions of cases, only one term a year. At Kalamazoo, for instance, if an important case arises, it is held over till some subsequent term. So in Jackson, and so in Pontiac; and it is usually settled at the winter term in Detroit, which sits two months and upwards. It often happens there, that judges have to go on their circuits before the decision of the court is made. They may have conferred together on the decision to be given, but in some cases where arguments have not been heard, or reference had to authority, it has occurred that a court have had to go on their circuits; and where you have had a bench of five, but two were present when the opinion was delivered, and the cases decided.

Let your Circuit judges compose your Supreme Court, holding three terms a year of the Circuit Court in a county, considering all cases; then suppose them to hold four terms a year of the Supreme Court; is it not perfectly obvious that cases cannot either be well considered, or decided with that deliberation which they should receive in a court of final resort, and which, in a Circuit Court, should be had in order to give satisfaction and prevent an appeal to the Supreme Court.

As to the objection of the gentleman from Monroe, [Mr. McCLELLAND,] in respect to the formation of the character of the judges by such a system—the advantage it is supposed will be derived from holding courts and participating in trials. I here stated and referred to facts to show that the selection of judges will be made from the circuit judges as the system progresses; but even if you turn aside from that, and make selections from the bar, you do it with reference to the superior qualifications of the persons selected, and the character they have acquired for ability, learning and integrity. I suppose you are not going to take new and untaught men for either, but will select for both men of the greatest ability, experience and practi-

cal skill—and to the court of last resort, you will select men that have had that very training which my friend from Monroe speaks of; and that they will be constantly learning and improving.

There is another view worthy of note. It is this: your judges, whether in the Circuit Court or Supreme Court, should not be the whole time in court. Aside from the consideration that human nature cannot endure incessant labor, (and perhaps there is no labor more severe than that of the judge constantly occupied in his duties,) and that there should be some respite, there should be some time for reading and study, from that required in particular cases. The science of law is progressive. Not only are the statutes to be read, which are obligatory on the States, but questions of constitutional law require your judges to be acquainted with the decisions of the United States Courts. And again, you have to consult the decisions of other States. Our law is the common law. Its principles have to be considered and applied, as new questions arise, and to new phases of society. Their application is from time to time required to the changing aspects of society in this progressive age. Our system of rail roads, for example, is giving rise to questions new and perplexing, and which require the principles of common law to be applied under new circumstances.

Now, sir, although the idea is thrown out that the place of a Supreme Judge would be a sinecure, it is entirely erroneous. I do think that he should have some opportunity for reading and study, and keeping up with the progress of the age, which, under the system of the gentleman from Monroe, would be nearly impossible.

In reference to the argument that it is necessary for a judge to go amongst the people, I refer again to the difference between the United States Courts and our own. Our judges are all the time among the people. They are to be elected by the people. If they hold two terms a year in a circuit, they are then among the people. But, sir, in reference to the particular administration of their duties, I do not see what particular light they can derive from the fact that they can see the people and the people can see them. They look to the members of the bar, that represent

the suitors, to present the views and arguments which are supposed to bear on the decision. If your courts are placed where they are easily accessible to the bar, they are under the observation of those interested in the administration of justice, as well as the whole people.

Another idea is urged: that the laws of the Legislature are to be construed, and that the judges should go among the people in the circuits to obtain the aid of popular sentiment for this object.

Mr. McCLELLAND—Will the gentleman allow me to interrupt him. My remark was that those judges, without mingling at all with the people, would become speculative and technical. The gentleman [Mr. BACKUS] asked why they would be more technical than others, if they were confined to their closets? I replied that they would generally become mere book worms, and they could not keep up with the progress of the age. Not that they should be governed by the people, or by popular impulse, passion or opinion, in their decisions. I would inquire of the gentleman, if judges had not kept pace with the progress of the age, and had not occasionally broken down precedents, but had confined themselves entirely to their closets and their books, what would have been our condition now?

Mr. GOODWIN—The application of the laws and the construction of statutes are neither of them to be determined or aided by popular sentiment and popular impulses, as has been in fact suggested. The interpretation of statutes is to be ascertained from the statutes themselves, and those rules of construction which reason and good sense have established; and the rules of the common law are to be determined by the investigation of its principles and reasons, in reports and other books of authority, and the exercise of sound judgment in their application to facts as they are presented, and circumstances as they arise in the progress of things. The judges are not to make the law, but to determine what it is, and apply it to the case presented. That object would be much better accomplished by the plan of the committee than the one presented by the gentleman from Monroe.

In the first place you select your judges from the best materials in the State, with

reference to their public qualifications—then experience in the trial of cases, as I have before suggested. If the judge has had none of that experience, he goes into his position very lame; but when placed there on account of his knowledge of the law and its application, acquired as before mentioned, he becomes a better judge than if half or three-fourths of his time was given to the duties of his circuit.

The gentleman from Monroe [Mr. McCLELLAND] said—"We are too early for the system; we cannot find material in the State to carry it out." We propose four judges for the Supreme bench, and five for the Circuits. I ask, sir, if you cannot find four men in the State competent to perform the duties of the Supreme Court, where can you find seven that will not only be able to do the duties of the court of final resort, but also those of the circuits? The argument overthrows itself, because it must require greater abilities to perform the double duty than it would to perform either singly.

Where is it more important that you should have absolute correctness, than in the court of last resort? The decisions made in Circuit Courts can be reviewed. I consider the assertion a reflection upon the jurisprudence, the bar, and the intelligence of the State.

In addition to that, let me take another view. Under the system proposed by the gentleman from Monroe, at least seven, and perhaps nine judges, will be required. Will you not, then, have some of a lower grade of talent and qualifications for the court of last resort? It would not be expected that the same four would hold the Supreme Court all the time. Then look at this fact with reference to dispatch of business and its correct administration.

As to what has been said in regard to the court of Massachusetts, it is difficult to draw analogies from those old States where they have men devoting themselves throughout their lives to the courts, sometimes to particular courts and particular branches of jurisprudence. They have, besides a Supreme Court, another court of general jurisdiction, a court of common pleas. If she had but one list of judges, and they had to hold courts in thirty-five counties, and do the whole business of the State, they would not find time for the ex-

ercise of that care and attention, and they would not be distinguished for those superior merits which have been attributed to them, and which I am not disposed to question.

Now, sir, let us see what is the experience of the age in these United States, so far as we can obtain it from constitutions more recently established? I answer, in all but two of the Western States, the system reported by the committee has been established.

Ohio and Wisconsin are the exceptions. Ohio is now holding a Convention and proposes a reform. Wisconsin has only decided to adopt her present system temporarily. You find the system in operation in the States of Indiana, Illinois, Kentucky, Missouri, Tennessee, Mississippi, Alabama, Arkansas, Louisiana, Texas—yes, and in the new golden State of California, now knocking for admission into the Union.

Florida has adopted, but temporarily, however, a system similar to that of Wisconsin.

In Indiana the system has been in operation from the formation of her State government, in 1816, until the present time; and she has ever had an able bench, and their reports are quoted with approbation in the older States of the Union.

Illinois, it is worthy of remark, adopted the system upon the organization of her government, as I have been informed; some time after changed it to the system proposed by the gentleman from Monroe, and recently, in her new constitution, just formed, has gone back to her first system. After having tried both, she gave the preference to the one similar to that reported by the judiciary committee.

Kentucky has had the system in operation from the organization of her State government, near the close of the last century, until the present time. In her new constitution, just adopted, after the experience of half a century, she continued the same system. And where will you find abler lawyers, and judges, and courts, than in Kentucky? Their land system, the offspring of that of Virginia, has given rise to a large amount of litigation.

In some of the older States, too, you find the same system. In Georgia it is the system. So, also, of North Carolina, of which Tennessee was a colony, and

from which it was transferred to the latter State.

And, sir, wherever you find the other system prevailing, you find other courts with concurrent jurisdiction, doing a large portion of the business. Most all of them have County Courts or Courts of Common Pleas, and do not commit the whole business and jurisdiction to Circuit Courts so constituted.

Mr. G. here referred to several of them, and the tribunals composing their systems.

Now, sir, you may go on to establish the system of the gentleman, and in five years you will find it inefficient, if not impracticable, and you will have to come back to the county court system, or some other system better and more effective than that which he proposes. This, it seems to me, will be the necessary result of our growing commerce, increasing population, and the consequent multiplication of questions and cases for judicial decision.

As the system proposed is the same we have in existence, and has the approbation of many gentleman whom I respect, and its continuation has been proposed by the gentleman from Monroe, I have considered it at some length. I am afraid I may have been tedious, but my apology is that I believe it to be of vast importance to the State—to its character and prosperity. Whatever conclusion we shall arrive at, I hope we may adopt such a system as may be efficient and give satisfaction to the people.

Mr. HASCALL called for the reading of a paper presented by him on the 16th of July, from several members of the Kalamazoo Bar, stating their reasons in favor of the establishment of an independent Supreme Court, and requesting the Kalamazoo delegation to use their influence in favor of said system, if consistent with their views upon the subject.

[It was read.]

Mr. H. said—I do not agree in sentiment with those from whom the paper comes, and cannot, therefore, comply with the request therein contained. I feel it incumbent on me, under the circumstances, to state my reasons somewhat at length, why I shall be compelled to take a course adverse to that desired by the petitioners.

I beg the indulgence of the committee, while I state as briefly as possible the con-

clusions to which my reflections have brought me upon the particular question before us. To say, sir, that the subject under consideration is a most important one to the best interests of the people, is only to state a fact in which every member of this body will concur. The people of the State have their eyes upon us, and are looking with deep interest to the action we are about to take. They expect—nay, they demand, sir—that this body shall establish a judicial system which, while it protects the rights of the community with intelligence and efficiency, shall at the same time be simple, practical and economical. I propose, in the remarks I am about to offer, to give my reasons why the plan of an independent Supreme Court will not accomplish these objects; and why I shall protest most decidedly against its establishment.

And, first, I object to the establishment of an independent Supreme Court, from which the circuit judges shall be excluded, because I believe a court thus constituted would be in contravention of the theory and genius of our government. Sir, the institutions of this country are founded upon the doctrine of the sovereignty of the people, as well in their individual as in their aggregate capacity. Each man, as related to his fellows, is a sovereign. He has no superior. He regards no one by natural right as his ruler. For the purposes of government and mutual protection, however, these individual sovereigns agree to delegate to chosen agents the right to establish and institute certain rules of action, by which they agree to be governed. To a body of men designated the Legislature, chosen by the people with reference to their peculiar fitness to make laws for their observance, this trust is delegated. This body of chosen men are presumed to speak and embody the exact will of their constituents, the people at large. No other power in the government is thus authorized to bind sovereign and independent men. Indeed, it is a fundamental provision in our constitution that the Legislature shall be separate from and independent of the other co-ordinate powers of the State. And this law-making power is the highest trust which can be bestowed upon man. When regularly exercised, it controls, for weal or woe, the best interests

of a whole commonwealth. How important, then, that this high privilege be exercised only by the chosen instruments of the people, and by them only in accordance with the wishes and expectations of those by whom they are constituted.

Now, sir, how is this will of the people to be ascertained but by a free and intelligent intercourse with them? How, but by mingling in their affairs and becoming familiar with their habits and modes of thought? I answer, it can be done in no other way. Familiar, habitual and constant intercourse is the only method by which men can become and remain imbued with the popular spirit, and become possessed of a knowledge of popular wants and requirements.

How, let me ask, is this independent, this isolated, this stationary court to become so acquainted with popular sentiment as to give a popular interpretation to the laws? Will it be likely to be imbued with the living spirit of the people? This is not pretended. Indeed, it is said that it ought to be removed from and placed beyond this influence. What, sir! are we to behold a tribunal in this country, raised high above the reach of the people; having no sympathies with them, and still passing irrevocably on their dearest rights? Are we to establish in our midst an insensible, iron-hearted, irresponsible oracle, to whose behests we all must bow and tamely submit? I ask gentlemen of this Convention—I ask you as American citizens—are you prepared to surrender your inalienable rights, your sovereign privileges, into the hands of a power thus removed from your resistance, thus elevated above and beyond you? I cannot believe you are prepared to take this wide extended step back into the realms of feudal despotism. Do we in reality believe in the supremacy of the popular will? Do we wish to see its spirit maintained, respected and obeyed? How, then, I ask, can we consent to the establishment of a power constituted with an expressed reference to its independence of popular feeling; and violating the fundamental principles of our government? Sir, such a tribunal is opposed wholly and absolutely to the whole theory of our republican institutions.

Again, sir, I object to the proposed court, for the reason that it will lose its practical

character, and become abstract and metaphysical. In the affairs of this life, perfection is unattainable. The highest results of human reflection are but imperfect and uncertain, at best. The most that we short-sighted mortals can do, is to adapt our means to the circumstances around us, in such manner as to render them of the greatest practical value in the common concerns of life. To this end, a constant and familiar acquaintance with the business routine of the world is indispensable. When men become removed from the every day affairs of life, and cease to mingle and come in contact with the multitude, the mind involuntarily reverts to abstract principles and truths, and a standard of human conduct is set up, not modified by the conditions and influences of practical life, which is too rigid and metaphysical for erring humanity. With a court constituted as it is proposed to constitute the Supreme Court, this effect would be inevitable. The judges, entirely removed from the conflicts and the modifying circumstances which prevail in the trial of causes on the circuits, and being called upon to declare the arbitrary and abstract rule of right, would unavoidably commit the error which I have pointed out, and establish a system of ethics altogether too sublimated for the imperfect nature of man. This I look upon as among the most prominent evils which will result from the system. Every remove from practical life is attended with doubts and difficulties, and becomes a fruitful source of perplexity and injustice. The elevated moral precepts of the Saviour, though founded on the plainest truths, and sanctioned by divine authority, have as yet failed to restrain the natural passions of men, or to establish a uniform propriety of moral conduct. The standard is too high for the present nature of man; its impracticability in this, our rudimental mode of being, is acknowledged. Rules for the government of human action must conform to man's nature, and must be regulated by a profound and practical knowledge of his condition. No men, more than the judges of our courts, need this knowledge, and this can only be obtained by a continual contact with men and their relations.

And this brings me to the third objection to the proposed system, which is, that

it excludes the Circuit judges from the bench of the Supreme Court. Of all the methods to strengthen and improve the mind of man, no one is so effectual as that which brings it into constant contact with other minds. It is then that its ability and acuteness is tested. It is then that its real merits are developed. It is like an ordeal by fire. If dross is presented, it is consumed; if pure metal, it is purified and improved. The judge upon the Circuit is in the midst of his fellow-men. Their eyes are upon him. His every action is scanned, his every judgment weighed. He is surrounded by learned and eagle-eyed attorneys, who are bending all their energies for the success of their cause. Their sophistries he must expose; their perversions of the law he must detect; the rights of parties he must watch and preserve. To him the springs of human action are constantly opened—the secret designs of men uncovered; whilst, in each particular case, the rules of law applicable are applied, and the judgment regulated by a view of all the accompanying circumstances. A judge thus trained and schooled—if he survive the judgment of the people—is becoming constantly more competent and more deeply imbued with the principles which should enter into the determination of differences between man and his fellow-man. His mind is being constantly invigorated with legal learning; his perceptions brightened by constant use; his understanding enlarged by constant reflection. He is, to all intents and purposes, a living, animate judge, thoroughly imbued with that wisdom which, in his particular sphere, maketh perfect. With these transcendent advantages, is it not desirable—nay, is it not imperatively demanded—that his voice should be heard in the tribunal of last resort?—that his experience and practical wisdom should be called in to establish the rule from which there is no appeal? That, having mingled with the multitude and breathed in their spirit, he should protect their interests, where they have not the power to interfere?

Let us inquire here, for a moment, what is proposed by the advocates of the independent court? Three judges are to be chosen from the State at large, before whom, sitting in banc, all appeals of law

from the Circuit Courts are to be taken and finally settled. By the action of this Convention, a great amount of litigation will be prevented. If there are good judges on the circuits, but few cases will be appealed. What proportion of the time, then, think you, this immaculate and omniscient trio will sit? I will venture to say, at farthest, if the judges are to be as competent as their advocates promise, not a day over three months in the year. Heretofore, our five Circuit judges (and even four before the County Courts were established) have done all the business on the circuits, and all the Supreme Court business, and yet have had a little time to spare. Hence, I say, with the transcendent talents which are promised in the proposed system, they cannot possibly consume more than three months in the year. There will then be nine long months left, in which this favored few may luxuriate and grow fat and lazy; all, too, at the expense of the State. Human nature, unless urged by necessity or ambition, is prone to ease and indolence. If there are any men in this State who, drawing an ample salary from the treasury, will confine themselves to close application to books, and especially to legal study, when not pressed by actual exigency, so that they may be at all times ready on any question that may arise in the supreme court, those men belong to a class *sui generis*, of which no other State in this Union can boast. Such men, sir, are difficult to be found. They are like "angels visits, few and far between." I can think of no one in the whole range of my acquaintance; and yet, sir, I have seen some few of the intellectual giants of Michigan. In sober earnestness, then, I ask gentlemen, if there is not danger of paying too dear for the whistle? If it is not possible we may do ourselves and the State an irreparable injury? I cannot but so regard it, if the system proposed is to prevail. It seems to me that the State cannot wish to incur the expense of sustaining a court so little occupied; and when occupied, so much less competent to decide intelligently than the circuit judges.

But I will pass to another and, in my mind, an insurmountable objection. It is this: By the establishment of an independent Supreme Court, the character and influence of the Circuit judges will be degraded and lessened. Above all other con-

siderations, it is important that the Circuit Courts be ably and judiciously constituted. They will be by far the most important courts in the State. Before them, all questions affecting the rights and interests of parties—questions connected with their lives, their property and their dearest relations—must first come. Often the decision of these courts must be conclusive, must be final, from the fact that one or both of the parties may be unable, on account of poverty, to carry the cause to a higher tribunal. What, then, is the effect? The rich man, who has a contest with the poor man, although he (the rich man) may be clearly in the wrong, can deprive the poor man of his rights, by requiring him to follow his cause to a court where he has not the pecuniary ability to go. The rich man is able to secure the best of counsel, to enlist in his behalf influential friends; while with the poor man, all these circumstances are reversed. He cannot procure able and faithful counsel, because he is too poor to pay. He cannot win to his cause influential friends, because he is too humble ever to be able to serve *them*. What, then, can he do, but see his dearest rights taken away by a tribunal high above his reach; by a court so exalted, and so expensive in its character, as to be only open to the rich? How necessary is it, then, to the poor man, that the Circuit Court, upon which he can alone depend, should be constituted of able and influential men, who can appreciate and protect his rights, and whose decision must be a final one to him. Sir, let us reflect. It should be our policy to prevent appeals to the court of last resort; to have causes justly and satisfactorily disposed of where they originate. How is this to be done? Only, sir, by elevating the character and influence of our Circuit Courts—by making them what they should be, the most competent tribunals in the State. This would do very much towards dispensing with the necessity of a court of last resort. At any rate, the interposition of that court would be rarely required; and when required, who more competent than the able judges, fresh from their duties on the circuit, to fulfill the duty? But, should the proposition objected to prevail, the direct effect would be to weaken the influence and degrade the character of the Circuit Courts.

The argument would be this: that, inasmuch as an able court of review has been established, the qualifications of the Circuit judges are not of very essential importance. If they make a bad decision, we have a competent court that will readily correct it. Thus the Circuit Courts, which should have at their head men of superior talent and of the highest qualifications, will be habitually regarded as inferior, and be made up of weak, if not incompetent, men. I ask gentlemen, would it not be a desideratum devoutly to be wished, if we could secure such wisdom and high attainments in our circuit judges, that their decisions would never be appealed from? I doubt not, all will answer yes. Should we not, then, strive at this time to bring about as nearly as possible so desirable a result? The answer must still be the same. Such being the case, I can never consent to any measure which will tend to bring these courts into disrepute. I had, by far, rather see the Supreme Court composed of inferior men, than the Circuit Courts. I repeat that it is before the latter that all our causes must first come. It is there I wish to see them all justly and finally disposed of. It matters not much what our tribunals of last resort may be, so that we have no occasion to use it. But, as this desirable result cannot be realized entirely, I say, let us have judges of the first respectability on our circuits; let what few cases may then be appealed from, be reviewed by them in banc. Under such an arrangement I will answer with my existence for the result.

I still further object to the system, because it will create an additional number of offices, and burden the State with increased expenses unnecessarily. It has been said that, unless the plan proposed prevail, four or five extra judges will be required to hold the circuits. This, beyond the addition of one or two, it seems to me, cannot be correct, unless the judges of Michigan are greatly degenerated, or are singularly incompetent. In 1820, New York embraced fifty-two counties, and contained an aggregate population of 1,372,812, and embraced within its borders the greatest commercial city in the Union; from which originated an infinity of litigation which filled its courts; and yet five judges accomplished all the labors both of the Cir-

cuit and Supreme Courts, and that, too, with a promptitude and ability which have made their administration famous as well in Europe as in this country. Now, I have before remarked that the action of this Convention will greatly reduce litigation in the future; our laws will be more simple, and our rights more clearly defined. All this will certainly be favorable to our courts.

Let us look, now, at the extent of our State and its present population, and compare the same with New York at the time referred to. We now number thirty-four counties, and have a population, as near as can be estimated, of 450,000; a little less than one-third that of New York in 1820. In 1845 the population of our State was 304,273. Can it be possible, then, that the judicial strength of our State is so effeminate, so weak, compared with that possessed by the New York judges, that it cannot perform the labor for less than one-third the number of people which was contained in that State in 1820? We have the same number of judges then in that State; we have less than one-third its population; our rail roads and traveling facilities are constantly increasing; and our judges can traverse their circuits with infinitely more ease and dispatch than the New York judges could; we have no great metropolis to compare with the city of New York; and yet, we are told, we shall require several additional judges to dispose of our business. This, at least, is not complimentary to the legal talent and capacities of our judicial functionaries. It is true that, at the time referred to in New York, in consequence of the rapid addition of new counties and the immense amount of business originating in its great commercial city, the labors of its courts had become very arduous, and business was accumulating upon the hands of the judges. But, notwithstanding all this, let us see what amount of extra force was called for, to render their courts entirely adequate to all demands. I quote the language of Mr. Buel, a distinguished lawyer, and delegate to the New York Convention of 1821, alluding to this very subject:

“For several years past,” said he, “it is true the five judges have not been always able to dispatch the business of the

bench and of the circuits. This, I apprehend, has not been owing to the great increase of business, so much as to other causes. Counties have been multiplied, and many more circuits are requisite to be held than formerly. The connexion of the judges of the Supreme Court with the Legislature, as members of the council of revision, has occupied a large portion of the time. They are about to be released from this duty, and will, therefore, be able to devote two or three months more to their judicial duties. I think it not improbable that this alteration in our Constitution would of itself remedy the evil complained of. But certainly the addition of a single judge, as proposed by the Chief Justice, [Mr. SPENCER,] would amply provide for all the contingencies of the case, without disturbing our present system."

Chief Justice SPENCER, alluding to the same subject, on the same occasion, said:

"It had been his opinion and the opinion of his associates, that with the addition of one judge, the present court would be able to do all the business that would be required for many years."

Now, sir, in the face of all this, with what grace are we told that unless we establish an independent court, we shall have to make these extensive additions to our circuit force? Are our judges really so lazy and incompetent as to demand four or five additional associates in order to enable them to perform the duties of our courts? If so, let me inquire what kind of a Supreme Bench such judges would make, when not compelled to exercise their faculties by constant practice on the circuits? I predict, sir, that your judges would soon become so fat and indolent that it would be necessary for the bar to help them on the bench! This would be an *independent* Supreme Court, with a vengeance!

It may be well, in this connection, to allude to the argument we hear frequently urged, that by the adoption of the proposed system we shall give dignity and character to our decisions; as if connecting Circuit and Supreme Court duties in the same judges would make their decisions less respectable. What has experience said? I will only allude, in this place, to one instance, which, with intelligent men, will be quite sufficient to overthrow the unwarranted assumption we have heard made.

It is well known to legal gentlemen everywhere, that the decisions contained in Johnson's New York Reports, are the very highest authority; not only in the United States, but in Westminster Hall. They stand above those of any other State in this Union; yet they were made by judges performing the double duties of the Circuit and Supreme Courts. And here let me again quote the language of one of the learned judges most prominent in making these decisions. In speaking of the policy of thus uniting the duties of both courts in the same judges, Chief Justice SPENCER, in the convention of 1821, said:

"They (the judges) had never been desirous of being released from their circuit duties entirely, because they had considered it for the best that they should mingle with the people in the different counties of the State. It is rational to suppose that such a plan is best calculated to give satisfaction among the people; as a judge, coming from a remote part of the State, must be supposed to be a stranger to the parties who are called before him."

This example, it would seem, ought to be sufficient to render it unnecessary to pursue this unauthorized assumption farther. But, sir, I am about to object to the proposed system under another aspect, where I shall adduce still further examples to show how groundless and how contrary to facts is the assertion put forth by its advocates.

The objection is this: Wherever the independent system has been tried, it has sooner or later been abandoned. England, after sustaining the *aula regis*, an independent court, for several centuries, by successive modifications and improvements under able and upright judges, at last matured that almost perfect system from which our ancestors patterned, of connecting Circuit and Supreme Court duties in the same judges. It was under this system that that splendid collection of legal decisions was made, which are contained in the New York Reports by Johnson, before referred to. It was under a similar system that the decisions contained in the Massachusetts Reports, scarcely less celebrated, were made. Under a like arrangement the judges of the Supreme Court of the United States have performed their duties, and yet the reports of their decisions abound

with judgments of transcendent ability and the most profound legal accumen. But, I will go no further for examples. Those produced, it seems to me, are decisive of the question, and show most conclusively that circuit duties, so far from being incompatible with Supreme Court duties, operate most favorably in giving strength and character to the final opinions of our judges. From 1822 to 1847, New York had an independent Supreme Court. I appeal to any competent legal gentleman whether the decisions of that court did not steadily degenerate after the first mentioned period, running down through Cowen's and Wendell's Reports, until they fell far below those of a former period under the other system, in point of legal ability and sound authority. The late Convention in revising the constitution of that State, restored the old plan, somewhat modified, which had been abandoned in the Convention of 1821, and again connected Circuit and Supreme Court duties. This is the commentary of New York on her experience, after a full trial of both systems.

Again, the system proposed is objectionable because it enables incompetent judges to shield their weakness under the industry and ability of their associates. Where no test—like the performance of Circuit Court duties, in the performance of which each man must be tried on his own peculiar merits—is applied, all that is necessary to shield the weak and indolent judge from disapprobation and contempt, is for him to maintain a prudent silence, appear dignified and look extremely wise. In this way his demerits will be concealed, and whatever honor may attach to the performance of the high duties connected with the supreme bench, if made respectable by the labors and high qualifications of his associates, will be equally shared by him. To this, as a possible and most probable result of the system, I do most decidedly object. I wish to see our judges subjected to the fiery ordeal of the circuit, before I shall be willing to rely implicitly on their capacity and integrity.

In conclusion, I object to the system, because it originated with a view to political ends, and not to the public good. It is a scheme by which politicians are managing to increase the number of high offices in the State, for the purpose of enjoying them

themselves, or of placing troublesome men therein to remove them from the path of political preferment. It comes from the wrong quarter; it is advocated by the wrong men. The people do not want it, and if I can divine the future, its advocates will be called to an account for the course here pursued. I object to the whole system, because it proposes to engraft on our State government an institution subversive of the popular will—a high and august tribunal, upon which the people, at a great distance, are to gaze and shrink back with awe. Because it will render our law decisions less practical and less conformable to the condition of actual life. Because it will tend to degrade the character and destroy the respectability of the Circuit Courts. Because it will effectually exclude the poor man from its presence and protection, on account of its elevated and expensive character. Because it will give incompetent and indolent judges an opportunity to shield themselves from public criticism. Because it creates additional offices, and will cause increased expense; and, finally, because it has been repudiated wherever both systems have had a fair and impartial trial.

These, Mr. Chairman, are the reasons which have influenced me in the determination to which I have come; and whatever may be their effect on others, they must control the vote which I shall be called upon to give.

Mr. BACKUS said—Mr. Chairman, I have listened with great attention to the discussion that has been going on in relation to the article upon the judiciary, now under consideration, and especially that particular part of it which relates to the organization of a Supreme Court, the court of last resort in the State. It is a question that I deem the most important in the organization of our government. It respects an institution that stands between the people, as individuals, and the government; and between citizen and citizen, to mete out, maintain and enforce their relative rights, duties and obligations. In a government constituted like ours, it is the very sheet anchor of our existence. Let the fountains of justice be corrupted, or our citizens lose confidence in the honesty and integrity of this branch of our government, and all is gone.

The question now before the committee is, shall we have an independent Supreme Court, or, in other words, a Supreme Court separate from the Circuit Courts, composed of different men, who, in the review of a case from the circuit, can one and all act without preconceived notions, bias, sympathy, or pride of opinion; or shall we, as it has heretofore been under the old system in this State, leave our citizens to have their rights determined finally by a Supreme Court composed of the same men who have tried them at the circuit, where the fountains of justice are, or are liable to be, poisoned and polluted by preconceived notions, bias, sympathy and pride of opinion in the court of review, and the consequent lack of public confidence?

The range of discussion on this subject, as indicative of the views of gentlemen on this floor, and especially the discursive flight of the gentleman from Kalamazoo, [Mr. HASCALL,] in the speech read by him, represent what has no foundation in fact. They speak of an independent Supreme Court under the constitution we are now about forming, as some august tribunal, removed to an almost infinite distance from the people, and so august and high that the people cannot be permitted to look upon it—much less, enter its precincts. Is it so, sir? It is not so, and gentlemen well know it; and I will not so far stultify them as to suppose for a moment that they apprehend or imagine any such thing.

It will be composed of your citizens whose official existence will be created by the same constituency that creates your Circuit Courts; and the power given to it always under the control of your people, through the Legislature.

Is it, then, the fearful tribunal before which in terror the private citizen must bend the suppliant knee and tremble, and which is only known by some manifestation of its unseen power? No, sir; and gentlemen who argue thus, manifest either a lamentable ignorance of the subject, or a wanton design to pervert the truth. The whole system is emphatically of a popular character—it originates with and is amenable to the people. It derives its power from the same fountain source—the people—as your humblest justice of the peace, and like him is responsible for the trust confided.

But, it is said, create a separate Supreme Court and it will degrade your Circuit Courts. But why degrade them? If for any reason, it is because their decisions are subject to review. If so under the system proposed, and under which the State now suffers, they are degraded, for their decisions are subject to review. And all your inferior courts are degraded. If this be an evil, gentlemen can never find for it a remedy, until they melt all courts into one; or all courts have final and conclusive jurisdiction. If the fear is degradation, give to your circuit and justices' courts final and conclusive jurisdiction—abolish altogether your Supreme Court. Will gentlemen do this? I would far rather see it than the mockery of having the circuit judges review their own decisions. But this gentlemen do not propose; no, they must have a Supreme Court, which, if you believe them, degrades the circuit. The truth is, sir, the very idea of an appellate court, a court of review, is wholly opposed to the notion of the same or any of the individuals composing it, whose decisions are appealed from or are to be reviewed. It is in principle unsound. Hitherto this State has tried it and it has worked badly, and gentlemen now propose to perpetuate this objectionable feature, who oppose a separate Supreme Court. What, sir, would any man in his senses say to a proposition like this: that a jury who had once tried a cause by hearing the evidence, and given a verdict, were the most competent jury on the same facts before whom to re-try it? In what, sir, does the case of the jury differ from that of the court gentlemen propose, in which your appeals and writs of error are to be taken from the circuit to the same judges, sitting in the Supreme Court? It is a mere farce.

Gentlemen have talked of and referred to the *nisi prius* courts of England, and New York, under her former system, and intimated a similarity between them and the system they now propose. The fact is, sir, between them and the one now proposed there is not the slightest analogy. In the former, everything but taking the verdict, down to the issuing of the execution and closing the record, was and is done before a full bench of all the judges; while, under the system now proposed by gentlemen, everything is done at the cir-

cuit by a single judge, who forms a part of the Supreme Court, if an aggrieved litigant wishes to have his case reviewed. And not only this, but with him sit the other judges, who, like him, perform circuit duties, and who if human, have mutually a deep sympathy to have their respective decisions sustained. The probabilities of justice are far higher—indeed certain—under a *visi prius* system, compared with that gentlemen propose now to substitute for the one reported by the committee in the article under consideration.

The plan proposed by the gentleman from Monroe, [Mr. McCLELLAN,] of taking four of your circuit judges, out of the seven, eight, or nine, to compose your Supreme Court, is far more objectionable than that of the gentleman from Calhoun, [Mr. CRARY,] to place all your circuit judges on the Supreme Court. Bring in the entire family of circuit judges, or bring in none of them. With the whole of them the chances for justice among our people would be far superior, from the mere fact of number, to having but a part of them. The opinions of the many *might* not be as easily brought to bolster up the opinions and decision of the same men at the circuit, as that of the few.

Would the gentleman from Monroe select his four judges by a sort of ostracism, or how? Would he have them sit in judgment upon review upon their own decisions at the circuit? If they should not do circuit duties, would they not be elevated to the same suspicious height, and bear the same obnoxious character, in fact, that the gentleman from Kalamazoo so trembles at? By what rule, and in what manner would he select his four judges from the circuit judges for the duties of the Supreme Court? For their superior merits and attainments? By whom is this to be decided? By themselves? Or are they to be designated by a system of jack straws? Why all this circuitry? Why not let the people, who are to come under their power, directly themselves exercise this high trust of designating the persons that shall compose their court of last resort? Dare not gentlemen trust the people? It looks like it.

As I said before, the plan of the gentleman from Monroe is far more objectionable than that of the gentleman from Calhoun,

who proposes to let into the Supreme Court the whole family of the circuit judges, to review together their own decisions. But would the gentleman from Monroe select four judges from the circuit judges for the Supreme Court, to review their own decision, and those of their associate circuit judges? If they are not to pass upon review their own decisions at the circuit, one-half of the decisions in the State will have to go over to some future term, to the great delay of justice, until you can bring into the Supreme Court the residue, or four others of the circuit judges, to pass upon the circuit decisions of those just left. It would be a most cumbersome system, fraught with evils interminable. I can only wonder that such a system should find an advocate, much more an author, in the usually clear-headed gentleman from Monroe.

The judicial system of the United States has been referred to as sustaining the system of a Supreme Court with its judges performing circuit duties. Between that and a system for our State there is no analogy of circumstances to which it can apply. The only argument that can be urged in favor of the federal system is the fact of the diversity of practice and rules of decision, created by local law, with which it becomes desirable that the judges of the Supreme Court should become acquainted. In our, or any single State, this principle has no application, for the rules of practice and decision are or should be uniform. In a recent conversation with one of the judges of the Supreme Court of the United States, [Judge McLEAN,] from his long experience in such matters he most unequivocally expressed, as the result of his observation, that an independent Supreme Court was almost indispensable to a speedy and healthy administration of justice; and that, notwithstanding the reasons aforesaid for the judges of the Supreme Court of the United States doing circuit duties, the circuit duties of those judges would have to be dispensed with before the Supreme Court would become that tribunal which it might and ought to be as the court of last resort. The opinion of such a man, and his large experience, are, in my mind, and justly ought to be, entitled to much weight.

But, sir, the system of courts proposed, as a matter of fact, cannot dispose of the

business of your State. You have, sir, in the State now a judicial force of thirty-six judges, consisting of thirty-one county judges and five judges of the Supreme Court, exercising original and appellate jurisdiction. It is now proposed to have all these duties performed by seven, eight or nine circuit judges. I again repeat they cannot do it. Our people will be thrown back into the experience of by-gone years, the calendars of your courts will be loaded with causes, and the rights of parties will be frittered away by the ruinous delays of your overloaded judicial system. Gentlemen propose to elevate your circuit judges by imposing upon them more duties than they can perform—by requiring them to do what they cannot well do.

I had far rather see your County Court system firmly established, with original jurisdiction, both in law and equity, with no intermediate court to the Supreme Court, where the decisions of the County Courts could be impartially reviewed.

Some gentlemen seem to intimate an apprehension that an independent Supreme Court would become technical, and in forms lose sight of right. For this supposition I have heard no reason, and none I am sure exists in the nature of things, and can only exist in a disordered fancy, which is capable of conceiving right stifled by form, when a learned and high minded bench rebukes ignorance. From the course of discussion by some gentlemen, one would infer they really supposed the friends of an independent Supreme Court opposed to judicial reform; for one, sir, I will freely say I will go as far as any one on this floor in a healthy reform to brush away all the cobwebs of antiquity that sustain useless forms and technicalities. But let me say, sir, that nowhere can this high and important duty be more or as safely placed for efficient results, as in the hands of a learned bench. And if proof, sir, were wanted of this, the past history of our own State in judicial reform, and its managers, is most triumphant proof, where, by the ignorance of the reformers, as every one has seen, and some have felt, every step of their progress has been to sink deeper and deeper parties and their rights in the mist of uncertainty.

But gentlemen still, as the only subterfuge, (and I consider it no better,) make

pretence that an independent Supreme Court will degrade your Circuit Courts. My opinion is, and I think experience is, directly the reverse. It will add vigilance to your circuit judges. If you place men of a keen, legal perception in your Supreme Court, men able and learned, will it not necessarily make like men of your circuit judges, whose decisions are liable to such a scrutiny?

But, sir, on the other hand, if the judges of the Circuit Courts are to be brought together to review their own decisions, may not right be forgotten? It is human—in mere sympathy for each other's position in an attempt to reconcile their various and varying decisions on the circuits. Do you not risk much more with such a system, than with one where your court of review comes to a question wholly unaffected by its previous consideration?

But gentleman say this objection is or may be obviated by withdrawing from the bench, for the time being, a judge who may have decided a case at the Circuit, when that is under review? To this there are two objections: 1st, you lose the benefit of his intelligence and learning in finally settling the law; and, 2d, you do not withdraw the other judges from his influence, or from the consciousness that each of their decisions is in turn to pass under the review of their associate so withdrawn.

Gentlemen refer to New York, under her present system; but for what purpose in support of their proposed system, I cannot perceive; for in New York they really have an independent court of last resort. Do gentlemen propose, as there, here to engraft upon our system their Supreme and Circuit Courts, Courts of Common Pleas and of Oyer and Terminer? I think not; for, if I understand the wishes of our people and the sense of this Convention, it is to have but two courts in the State, of general jurisdiction, above those of Justices of the Peace—a Circuit and Supreme Court.

But, as an argument that the court they propose is capable of doing the business of the State, they again refer to New York, under her old constitution, when the Judges of the Supreme Court performed circuit duties; but they omit to state that the Senate was then the court of last resort; that the Chancery duties were performed by a Chancellor; and there was in full operation

a Court of Common Pleas and other subordinate courts, which took off a large per cent. of the business; all of which, with the Chancery business inclusive, it is now proposed to impose upon the same judges who hold your court of last resort. Massachusetts has been alluded to, and other New England States; but for the argument of gentlemen, unfortunately all these States have their courts of Common Pleas, or county courts, or other inferior jurisdictions. But more than all this, need I enlarge to show to this Convention the wide distinction there exists between the circumstances, condition and necessities of those States, as compared with ours, as a most full answer to all their assumptions and comparisons?

But the gentleman from Monroe [Mr. McCLELLAND] says, however other things may be, an independent Supreme Court will make the judges of it book worms. He wants them with the people on the highways, I suppose, or at public houses, or musters, and not in their closets making themselves familiar with the laws they are to apply to the relations of society.

In these matters the gentlemen from Monroe and Kalamazoo seem to disagree; for the gentleman from Kalamazoo wants your judges to be learned, but refuses them the time to learn; while the gentleman from Monroe wants them constantly with the people, instead of at their books, least they should become book worms.

The best, and a most full answer to such arguments is, I think, the mere statement of the proposition before as intelligent a body as this. With all the certainty of cause and effect, point me to a judicial system where the rights of the citizen or subject are trampled upon, and I will, nearly in all cases, show you ignorant judges. In all the States south and west the principle of an independent Supreme Court is making progress. In all the States save two they have an organization similar to the one proposed in the article under consideration. Gentlemen have adverted to the judges of Westminster Hall, as occupying a position analogous to the judges of an independent Supreme Court under this Constitution, and also for showing the tendency of such courts to technicalities.

The force of this argument I cannot perceive, as there is no analogy in the constitution of the two tribunals. Were there

any force in it, unfortunately for gentlemen the former spring from the mere will of the sovereign, while the latter come from the ballot boxes of the people. And I would further admonish gentlemen so prone to speak disparagingly of the English bench, that it has in modern times numbered among its most learned judges, the pioneers of the judicial reform that has redounded so much to the glory of English jurisprudence, in simplifying remedies by brushing away the cobwebs and crudities of antiquity.

The gentleman from Monroe [Mr. McCLELLAND] again urges upon the Convention, as an argument against the independent Supreme Court, and in favor of the circuit system, that the judges should go upon the circuits and mix with the people, to enable them rightly to construe the statutes the Legislature may pass; otherwise they cannot so well get at the intention of the Legislature.

Mr. McCLELLAND—I said, after a law was passed by the Legislature, and they intended it to mean one thing, the courts might give it a construction to mean a very different thing.

Mr. BACKUS—The gentleman repeats in substance what I have stated, that any courts may give to a statute a construction different from what the Legislature intended; and I am yet to learn that it is the result of any particular system; but rather, I should think, if there existed a learned and intelligent judiciary, was the result of the ignorance of the Legislature, in using inapt terms to express their intention. Surely the gentleman will not contend that, however much the judges may mingle with the people, in the judicial construction of a legislative act, they are to pervert its terms to conform merely to any popular desire. This would create the worst of despotisms, destroy the identity of different departments of government, make your judges your Legislators, instead of your Representatives elected by the people for that purpose.

Mr. McCLELLAND—I will detain the committee a few moments, whilst I briefly reply to some of the remarks made by the opponents of my amendment. I desire the members, if they are disposed to take the trouble, to examine the arguments of these gentlemen, and they will find them so irrec-

encilably inconsistent with each other, that they will be considered entitled to little weight.

The gentleman from Wayne [Mr. BACKUS] disapproves of and scouts the idea of schooling judges in the circuits; and, in truth, any other place except the bar. He would have them know all the practical duties, and possess all the good qualities of a judge, as it were, by intuition. It is well known that a lawyer may be distinguished at the bar for his abilities, ingenuity, application, industry and integrity, and yet be incompetent to discharge the duties of a judge. It requires so many qualities that are so seldom found combined in one person, that it is rather a rare thing to find an unexceptionable judge. How many instances are there on record, of great lawyers failing to answer the expectations of those who were instrumental in elevating them to the bench, and were sanguine of their success. The gentleman will, on further reflection, see the fallacy and absurdity of his remark.

They have argued with apparent sincerity that there is no analogy between the system of the United States and the one proposed in my amendment. The gentleman from Wayne [Mr. GOODWIN] does admit that in some respects they are alike; but this is done so faintly that a listener would suppose that the gentleman did not clearly perceive the similitude. The argument, when analyzed reduces itself to this: that the only reason for keeping up the union of the supreme and circuit systems in the national judiciary, is that the judges may become intimately acquainted with the laws of the several States, and the local rules applicable to them. Now, sir, it is not necessary for me to show that the duties of the Supreme Court judges, when on the circuits, are very nearly of the same character as those of the judges of the Circuit Courts in those States where the system proposed by my amendment exists. A substantial difference has not been, and cannot be pointed out. Every one conversant with the structure and machinery of the Circuit Courts of the United States and the States, and their connection with the Supreme Court, knows that the analogy is close. Let us examine the argument of the gentleman from Wayne, who asserts with great earnestness that the main object

of making the judges of the United States Supreme Court discharge circuit duties, is to make them familiar with the laws and local rules of the several States. The whole of the States are divided into nine circuits; to each of which one of the judges is assigned. With the "laws and local rules" of the States embraced in his particular circuit, the judge presiding over it may become familiar. Suppose an appeal is taken from one of his decisions in his circuit to the Supreme Court. Does any of the other judges know, from their discharging circuit duties, anything about the "laws and local rules" of the State where this decision was made, and which may be involved therein? Not at all. The other eight judges may be as ignorant of them as we are. They must depend, for their knowledge on the subject, upon their books, the ninth judge who decided the case, or the counsel who argue it. They do not interchange; but the same judge is almost invariably confined to the same circuit and the same State; so that it is manifest this argument has no force. It is not the reason why the union of the two courts is permitted to remain; and on examination I doubt whether it will be found advanced by any friend of the system in either house of Congress in any of the discussions had there, as among the most prominent in its favor. In the discussion to which I have already referred, the views of Mr. Badger appeared to be satisfactory to all, and the only argument urged for the temporary relief of the supreme judges from circuit duties, was that it was necessary to enable them to clear the Supreme Court calendar.

The gentleman from Oakland [Mr. HANSCOM] says the supreme judges hold their offices during good behavior, and ours for a term of years; and that this constitutes a great difference in the two systems. I cannot see how this shows the impropriety of our supreme judges performing circuit duties. I do not know how he applies the argument, and confess I cannot comprehend it.

Gentlemen harp much on the expression I used, that it was necessary for the judges to mingle and come in contact with the people, and have spoken of it in no very measured terms. Now, it so happens that nearly the very same language has been

used, and certainly the same sentiment expressed by Senator Badger, Chief Justice Spencer, in 1821, and some of the most distinguished lawyers in the New York convention of 1846. I can have little objection to urge against the hypercritical remarks of gentlemen, so long as I have the names of such men to sustain me. I repeat what I before stated, that it is necessary for our judges to keep pace with the progress of the age. If judges had not done so, we should now be subjected to an iron rule to which no good citizen would willingly submit. It has been found absolutely necessary, in some instances, to subserve the good of the public to break down precedents, and override usages that had become venerable by age. This has been owing in a great measure to the legal profession, and I am gratified in being able to say that I believe it has made more progress and improvement than any of the other professions.

The strong probability is that either of the proposed systems would answer a good purpose, if there were good judges on the bench; and I must not be understood as maintaining that the independent system would, under no circumstances, work well. Neither will answer unless the right kind of judges are secured; and from the consideration I have been able to give the subject, I am confident the supreme and circuit systems united, is the best, and will be productive of the most good.

The gentleman from Oakland [Mr. HANSCOM] thinks some of my arguments were intended for the people rather than for the members of this convention. In this he is totally mistaken. The convention has met for the purpose of relieving the people of their burthens, and every one who suggests anything that, in my judgment, will produce that effect, shall have my hearty co-operation. I can assure the gentleman that I shall not be found consuming the time of this convention, either by speaking through it to the people or to the lobbies.

The gentleman has made some rather invidious remarks about a gentleman from Washtenaw, [Dr. DEXTON,] in connection with the remark I made about simplifying the practice and pleadings of our courts, and in relation to the County Court system. That gentleman needs no defence at my hands. All who are acquainted

with him know that he is abundantly able to defend himself. As to my sympathizing with him, I will say to the gentleman, without expressing any opinion upon the views of Dr. DEXTON, that I do most sincerely sympathize with any man who attempts to eradicate any of the evils with which community is unfortunately afflicted. The gentleman alluded to was not alone; he was sustained by a majority of the people; and grant, for the sake of the argument, that his schemes were as wild and visionary as the gentleman from Oakland imagines, yet the effort to ameliorate the condition of the people is worthy of commendation.

Had the County Court system, which the gentleman has denounced to-day, been sustained by the bar, and its defects, when pointed out, been corrected, and some of the bar had not waged a merciless war upon it, it might have subserved a good purpose. It has existed in other States and worked well; and in many of the counties of this State it is popular with the people. In the county west of the one I in part represent here, the system operates remarkably well, because they have a judge who is more competent to discharge the duties of a Supreme judge than many who aspire to it; and I believe the people and bar of that county are satisfied with it. Still, I am not the advocate of that system, believing as I do that we can adopt a better one.

Exception has been taken to my position that the Circuit judges require more talent, experience and industry than the judges of the Supreme Court. I still maintain it, and conceive that nothing has been said to shake it. I would ask the gentleman from Wayne [Mr. GOODWIN] whether, when on the Circuit, he has not, from the necessity of the case, been compelled to decide many questions of great importance without elaborate argument, time for reflection, and an opportunity of referring to books. The most intricate and complex questions are often presented in the midst of a trial, and a decision required; and unless you have a competent judge on the bench, the number of appeals from his decisions will be largely increased. Such is not the case with the Supreme judges. The questions mooted are generally ably discussed, authorities quoted, full briefs made out and delivered to them, and they decide at their

leisure. In fact, it is not usually as difficult for the judges of the Supreme Court to decide and give their opinions, as it is for counsel to prepare and argue the causes. I deem it, therefore, for the best interests of the people that the best judges should be placed on the circuits.

Gentlemen affirm that the County Court system was established because the judges of the Circuit and Supreme Courts could not dispose of the business of these courts. If so, why has the bar been so generally opposed to it? If the object was to expedite the business and clear the dockets, they certainly should have favored it. It would have been their interest to do so; and it is believed they can readily see and well know how to take care of what concerns themselves. But I have understood that the system was adopted as a part and parcel of the plan of reducing the costs, expenses and burthens of litigation. Within the last five or six years many useful reforms have been made in your judiciary proceedings which have facilitated business and diminished litigation. If these had been made without the institution of County Courts, the judges would have been able to dispatch business more rapidly, and might have cleared the calendars. The privilege given to the parties to have the case tried by the court without the intervention of a jury, is of itself a great improvement—saving much time and expense.

Mr. GOODWIN—Will it take less time to try a cause by the court than by a jury?

Mr. McCLELLAND—Undoubtedly.—Counsel will not introduce as much testimony—will not be as prolix in their arguments; nor will they endeavor (if they are wise) to excite to so great an extent its sympathies, or to mystify and refine, as they sometimes do before a jury. A moment's reflection will convince the gentleman that the difference is very great.

Gentlemen insist that seven judges cannot discharge all the duties that will be required of them. Then take the number they have in the article—nine. I do not look upon seven as a magic number. The grand object should be to have sufficient force to do promptly all the judicial business of the State. But if the seven or nine are insufficient, will gentlemen be kind enough to show me how their five circuit

judges can accomplish the task? Give the election of the seven judges to the people, place competent men on the bench, and there will be no difficulty. If the people make good selections, we shall have no cause to regret our action here. If they do not, neither system will long retain its popularity. The election of the judges will make them more vigilant, active and industrious; and as the article extinguishes for a time all political aspirations, we may with confidence hope that hereafter our judiciary will sustain that character which should distinguish it.

In New York, they have, as far as practicable, adopted the proposed system—four judges of their court of appeals being yearly fresh from the circuits. Why is this? Because they have been schooled there, and are prepared to discharge the higher duties with ability. Hereafter these judges, who have discharged circuit duties, will be the most likely to succeed to the court of appeals, because of their knowledge and experience as judges.

By the independent system, the circuit judges will be looked upon as of an inferior grade, and will not be more respected than many of the county judges. The consequence must be an increase of the business of the Supreme Court, without any corresponding benefit. Look at the cases taken up from the County Courts, and compare the number and the amount of business now, to that of the Circuit Courts before the organization of the County Courts, and you will see how much the reputed inferiority of the latter courts has augmented the business of the Supreme Court. The gentleman from Wayne, [Mr. Goodwin,] and other judges, presided in the Circuit Court for Monroe county, and there were not half a dozen cases taken up to the Supreme Court from its establishment until 1846. If the County Court is continued in existence as long, one would not be much out of the way in predicting that there would be twenty times as many. Why this difference? Because the suitors and counsel place far more confidence in the decisions of the circuit than they do in the county judge.

The gentleman from Wayne [Mr. BACKUS] says he would rather go for a *nisi prius* system than for that proposed by me. I have no doubt of it, and will frankly ex-

plain the reason. In 1843, when I was a member of the House of Representatives of this State, an effort was made to induce the Legislature to adopt that system. By it the trial of facts would have been had in the proper county, but all questions of law would have been taken to the Supreme Court. As most of the Supreme Court cases are argued and disposed of in Detroit, the gentleman's place of residence, he would have enjoyed, probably, a lucrative practice at the expense of his brethren in the country. The latter would have been mere attorneys, a kind of tender to the profession in that city. The suitors would have been compelled to employ the attorney in the county to attend to the trial there, and counsel in the City of the Straits to look to it in the Supreme Court. From this brief statement, all can readily see why the gentleman is so favorable to this system. When understood by the Legislature, it was defeated; and I hope the independent system, when the discussion is through, will meet the same fate.

Gentlemen inquire how I can find material for the circuits and not for the independent Supreme Court? In reply, I would observe that we may have many at the bar who would make good judges, but they want experience. Place them upon the circuits, and they will be adding to their knowledge and experience daily, and will be better prepared to do themselves justice in the Supreme Court, than if they were from the beginning entirely confined to it. Train them in this as in every thing else. Do not indulge the hope that men taken from the bar, without any practical knowledge, will make good judges. It is a difficult position to sustain under any circumstances, and if you will select from the ablest and most worthy of the profession in the State, and give them ample opportunity to learn, you may soon have a bench of which all will be proud. There is, as I have already remarked, much talent and ability in the legal profession in this State; but no one will consider me as detracting from its character, when I say most of the profession want that experience which a Supreme judge should possess.

On motion the committee rose and obtained leave to sit again.

The Convention then adjourned.

TUESDAY, (43d day,) July 30.

The Convention met pursuant to adjournment and was called to order by the PRESIDENT.

Prayer by the Rev. Mr. TOOKER.

MOTIONS.

Mr. J. BARTOW moved to go into committee of the whole on the article entitled "Judicial Department."

On motion of Mr. HANSCOM, the same was amended by inserting "Exemptions and the Rights of Married Women" in lieu of "Judicial Department."

The Convention refused to go into committee.

On motion of Mr. J. BARTOW, the Convention was resolved into a committee of the whole upon the general order, Mr. HANSCOM in the chair.

The committee took up the article entitled "Exemptions and the rights of Married Women."

Mr. ROBERTSON inquired if it were necessary to take the minority report in preference to the majority.

The CHAIR said the article was taken up in the order of its number.

Section 1 was read, as follows:

Sec. 1. The personal property of every resident in this State shall be exempted, to the amount of not less than five hundred dollars, from sale on execution or other final process of any court of law or equity.

Mr. TIFFANY moved to strike out the words "less than five hundred dollars," and insert the words "more than three hundred dollars."

Mr. WOODMAN called for a division of the question.

Mr. TIFFANY—My object is to obtain the opinion of the committee as to whether or not the Legislature should be restricted in the amount which they exempt; whether they are to have unlimited power of exemption or not.

Mr. J. BARTOW—The section as it now stands does not give the Legislature unlimited power, or any at all. They are to carry out by legislative enactment this provision, and are compelled to pass a law making an exemption to the amount of \$500. The amendment would give the Legislature a discretionary power up to the sum of \$300. It would give them the power to strike out all exemptions. If we desire to do away

with all exemptions, or fix the sum to be exempted, let it come up in the proper manner.

Mr. AMMON BROWN thought the gentleman was mistaken. The section said not less than \$500. It seemed to him unlimited as it stood.

Mr. CORNDLL wished gentlemen to look at the section—"not less than \$500." Why, the exemption might run up to \$5,000.

Mr. GALE—If the Legislature saw fit to exempt \$5,000, would it not be in accordance with the wishes of the people? Have the people complained of the present exemption law? The present exemption is much more liberal than it was heretofore. To be sure there were some who grumbled when the law was passed; but was there, as a general thing, such complaint and clamor against it as would authorize the repeal of that exemption? No such thing. If the Legislature desired to exempt \$10,000, I will have no objection. Every man, when he trusts another, will know that these exemptions are in existence, and he will consequently be guarded in his dealings. This provision does not act retrospectively, it is entirely a prospective matter. If a repeal of a law placing the exemption at, say \$700, or at \$1,000, be demanded by the people, the Legislature being the direct representatives of the people, will vote in accordance with their wishes.

Mr. DESNOYERS suggested an amendment, which would make the section read in this wise: "Not less than \$250, and not over \$500," so as to place the exemption at the minimum and maximum.

Mr. VAN VALKENBURGH—I trust the motion to strike out will not prevail. It appears to me to be perfectly safe to trust the matter with the Legislature. We say, in effect, that if they see proper to exempt more than \$500, they may do so; and as was justly remarked by the gentleman from Genesee, [Mr. GALE,] they will not do so unless public opinion demands it. I hope the article, as reported by the committee, will be adopted. I think public sentiment demands it.

Mr. FRALICK—Why not leave it in the hands of the Legislature, so that the people can get at this principle whenever they desire it. So that when they desire

to have the exemption less than \$500 they can have it so.

Mr. J. D. PIERCE—The object of that restriction is a fair one. The principle of exemptions I take to be settled in this State, and in many of the other States. The object is that no hasty legislation may upset that principle—that the Legislature shall not exempt to any amount less than \$500. The present exemption law exceeds that amount. The exemption is near \$750. Any one, by footing up the different items exempted, will see at once that it is so. In the State of Wisconsin the law is more liberal. There, the articles exempted exceed that amount. The object in thus framing this article was to restrict the action of the Legislature, so that the principle may not be endangered. Public sentiment demands this provision. The principle has been sustained, triumphantly sustained in this State, and will be in all time to come. They might as well try to roll back the sun when he has ascended to the zenith, as to endeavor to repress or roll back this great principle of humanity. I may truly say we have the *vox populi* with us in our advocacy of this measure.

Mr. ROBERTSON—I was sorry, in the first place, that the motion was not to strike out the whole section. I hope a motion to strike out the whole will prevail. I consider the principle involved in this section as entirely wrong; and, although I am sorry, on every occasion, to differ with my reverend friend from Calhoun, [Mr. J. D. PIERCE,] yet I must say that the principle incorporated here appears to me to be altogether wrong.

The gentleman from Genesee [Mr. GALE] says "it is not intended to be retrospective in its effect." Well, sir, I conceive that from the day this constitution is adopted, if this provision be retained, it will go back to all debts heretofore contracted.

Mr. GALE here remarked that the Legislature might extend the exemption to \$1,000.

Mr. ROBERTSON—In that view, even, the whole thing is wrong. If we adopt anything of exemption here, it should be limited to debts hereafter to be contracted. But the committee have not reported any such provision; it looks, in fact, as if they wished to take away the power of collecting debts contracted under existing

laws. That has been the operation of exemption laws heretofore. They have worked backwards almost invariably. This section, in my judgment, is just tantamount to the Convention making a provision, or the Legislature passing an act, saying "hereafter there shall be no laws for the collection of debts." Now we propose to insert this article amongst other articles for adoption by the people; that not less than \$500 shall be exempted from execution, and in the next section the report exempts a homestead of 40 acres. It is thus made obligatory for all time, until the constitution be amended, that this amount should be exempted. The gentleman says that the people demand this exemption. I must say that I have never seen anything in the public journals, which may be justly taken as the index of the popular sentiment, on the subject of exemptions, except in regard to the "homestead."

The people of this State are an honest people, and I am certain do not desire to shield themselves from their just liabilities behind any legislative or constitutional enactment. I think even that this homestead principle is wrong, for I know how it works in my own county and township. I think the gentleman from Calhoun, who is the father of exemptions, has done a great injury to the people of this State, by insisting in Legislature after Legislature upon this exemption. Is the poor man benefitted by that homestead exemption? I know that he is not: he goes to a store, obtains some articles, perhaps the necessaries of life, or something else, upon credit, and what does he do? Why, he is obliged to give a mortgage upon his corn or upon his cattle or land; and the hard creditor comes and closes up the mortgage, long before the collection of the debt could be had by process of law, and thus takes the bread out of the poor man's mouth. Let gentlemen say that hereafter it shall not be in the power of any man or woman to give away their property without the consent of the whole family. Let them say that, and it will come up to what is exemption in my mind.

I hope the section will be struck out, and indeed the whole of the article. I am willing to leave the whole subject to the Legislature; and I do believe that there are some gentlemen in this Convention who

have some little confidence in the Legislature. That course I believe would be the more desirable in a pecuniary point of view; for it is to be supposed that they will take such steps as are adapted to the exigencies of the times. When such a state of things shall arise that the people shall have become so wealthy and prosperous as to justify it, these laws for collecting may be stricken from out the statute books. There has been, however, in my judgment, an unwholesome tone of opinion prevalent upon this subject. I know that the number of debtors in the State far exceed the number of creditors; and I know that the number of those who have not lost is not equal to those who have. The gentleman says "the *vox populi* is on his side," but I think that the *vox populi* in this instance is not the *vox dei*.

There are other countries in which there are no exemptions, and where men are not "ground down to the dust by the oppressions of heartless creditors." I came from a country where you could put a man into jail for debt; but yet they did not fill their jails with debtors. Creditors trusted to the honor of those indebted to them. In the "small debts court" in the city of Glasgow, I have seen but few suits brought, in comparison with the number of suits of the same character that are brought into our justices' courts. As I said, they confide in the honesty of debtors, and but seldom have recourse to legal remedies for the enforcement of their claims. I say this movement results from an unhealthy state of public sentiment. An exemption of this nature was not asked for by the people; they did not cry out for it from the beginning; it originated with men who wished to take ground upon it in order to manufacture a species of popularity. I am sorry to be obliged to differ with my old and reverend friend from Calhoun upon this subject; but I do so, believing that the people have not demanded an exemption to the extent proposed, and that their present requirements would not justify it in this constitution.

Mr. J. D. PIERCE—The measure now under consideration is one of deep interest to the people of this State. The subject is one that comes home to every family. The gentleman from Macomb [Mr. ROBERTSON] accords to me more credit in this

matter than I deserve. The question of personal exemptions was settled in 1842. True, I had the honor to introduce, in 1847, the homestead exemption bill, and to lend my aid in 1848 in accomplishing the object. And I am happy in the belief that the seal of public approbation has been set upon it. Since then, State after State has adopted the measure.

But, I must confess my utter astonishment at the views of the gentleman from Macomb, [Mr. ROBERTSON,] as well as at the views expressed by the majority of the committee, in their report. He and they both denounce the principle of exemptions. I have no doubt the gentleman will review the ground he has taken. He cannot fail to do it. Experience will teach him a useful lesson. He admits that the public sentiment is in favor of the measure; but thinks that the *vox populi* is not the voice of God. I apprehend the voice of the people in this case will be found to be the *vox dei*.

The Hebrew code provided that all debts should be cancelled every seventh year. At the close of that year all were free from debt. Besides, no creditor could even take the landed estate of the debtor, and sell it for payment. He might take the use of it for a time, but never the title; and on every fiftieth year, the year of jubilee, every one returned to his inheritance. This code provided for the man and the family. With this single exception in the history of the race, the legislation of the world has been for the incidents pertaining to human life, rather than for man himself. Humanity has been wronged, outraged, down trodden, and the whole care of legislation has been bestowed upon property and its representative—money. Man and the family have been disregarded and turned out as vagabonds, by due course of law. In Europe, one hundred and eighty millions of people have been subjected to the severest labor and toils, that twenty millions may live in ease and affluence. The many are mere hewers of wood and drawers of water to that few.

If any thing on the face of the earth needs civilizing, it is legislation. By means of special laws, special privileges, charters and grants, the few have drawn from the products of labor their subsistence and their riches. Through various agencies

created by legislative enactment, that few gain to themselves the surplus productions of the globe, often times at half their value, and sell them out again at enormous profits. In this way vast masses of capital are accumulated in a few hands. By such means a large proportion of the circulating medium, the wealth and the riches of the world, have become theirs, and theirs too without their producing any thing: But this is not all. The very men who created the capital, and from whom it was wrested by means of special legislation, borrow back this very product of their own labor, and are forced to pay interest upon it. The aggregate capital of the United States cannot be less than \$300,000,000. By means of various shifts and shavings, this capital gains to itself at least \$30,000,000 of interest per annum. But whence comes this interest? From the productive labor of the masses, who themselves created the capital. Still they labor on to produce more capital on which to pay still more interest! Many sink under this indebtedness, brought about as above indicated, and fail to pay. The interest they are required to pay on their own labor eats out their substance. But this is not the end of the chapter. Here your stringent collection laws come in and complete the work. It is not enough that the few must have all the surplus products of labor; but if the laborer fails to pay interest on that very surplus capital which his own hands produce, and which was wrongfully taken from him, all that he hath remaining must be taken away. Because the people are, by the grace of God, free and independent, the officer is commanded by law to levy and distress—aye, sir, levy and distress!—to seize the goods and chattels, and if these failed to pay, the body was graciously provided for! Many are the men who once sung the peans of stringent collection laws, that have wailed when, by a just retribution, they themselves have felt their power pressing down upon them; and thousands are the children of such men who have shed bitter tears when they have felt the force of those laws which their fathers, in their prosperity, praised.

The spirit of aggregated capital is aggressive. It has no limit, no bounds. Controlling the legislation of the world, it has been resistless in its sway. It never tires,

it never sleeps. Soulless, heartless, remorseless, conscienceless, it presses onward, regardless of the dying or the dead. It produces nothing, but watches with an eagle-eye all the products of labor. It taxes all classes. It watches the wheat grower, the wool grower, the cotton grower, the laborer, the spinner and the washer-woman, and is never satisfied except with the lion's portion. Robbing labor of its reward, it reduces to, and leaves the man and his family in, abject poverty; not satisfied, it takes his cot, and turns him, wife and children, out, according to the statute in such case made and provided.

From the time that Romulus is fabled to have been suckled by the wolf, to the present time, this double power has weighed down the energies of man and pressed out his life blood. The power of legislation and the power of aggregated capital, sometimes one, and sometimes the other, has been in the ascendant, and led the van in the work of oppression and robbery. As against the masses, they have always been hand-in-hand. But latterly a voice has come up from the living masses, sounding in tones of thunder o'er hill and mountain the doom of the double tyrant. They are awaking to a knowledge of their rights, and demanding that labor shall have its reward; that the laborer shall not be turned out penniless and houseless. Legislation is beginning to relax its iron grasp, and is already in the process of civilization. And what howling and gnawing of the tongue for pain, and gnashing of teeth, because of the change. The faces of the combined few are gathering blackness, because it is perceived that the day of equal rights must come, when men shall build houses and inhabit them; when they shall not build and another inhabit it; when they shall not plant and another eat. True, before that day shall fully come, there must be the battle of the warrior, with a confused noise, and garments rolled in blood; and with burnings and flames of fires. But the day will come. You might as well attempt to roll back the bright orb of day, when once in its majesty it has ascended the eastern sky, as to think of stopping the progress of events. The many are not always to be robbed or spoiled. The many are not always to be hewers of wood and drawers of water to the few—the shavers by law, and the millionaires.

Sir, man is above money. In all the exigencies of business, the changes of fortune and overturning in the affairs of life, it is right, it is just, that man, the family, should not bear the entire burden of misfortune, and money and capital, which are less than man, wholly escape. Napoleon once said that the horses should first be worn out, and the men spared. So I say, in this matter: let wealth bear the burden, and humanity be spared. The homestead should be free, inviolate. No man—no woman—no child—no family should be driven from home, because the hand of adversity presses hard upon them. The measure is so accordant with the real spirit of progress, so just in itself, so wisely expedient in all exigencies to which families are liable, so alleviating when ill fortune bears them down, and so consonant with the popular sentiment and the principles of true Christian morality, that no power on earth can prevent its universal adoption, and they shall sit every man under his vine and fig tree. It is the high duty of the State to throw around every homestead, every fireside, every hearth-stone, the shield of its protection—to stay the proud waves of wealth, and capital, and usury, from carrying desolation over the homes of suffering, crushed, bleeding humanity. No power, no sophistry can dissolve that obligation. The State is bound to protect, not to crush.

Free religion, free schools, free trade, and a free home, are the essential elements of liberty. The home must be inviolate, or liberty is but a name, and freedom a mockery. Our Saxon fathers understood this matter; hence, they made every man's house his castle. But after the Norman conquest, when wealth and title usurped the control, the rule was changed, and the home of the masses was desecrated by the grasp of power. Man, without a home, is an outcast. He has been robbed of his birthright by the strong arm of government, under the control of wealth. Many men and many families, women and children, have been stripped and turned out, because the people claimed to be, by the grace of God, free and independent. Such has been the blasphemy of legislation and legal adjudication. In the name of Heaven it has crushed the man and driven him out—taken his home, his cot. No matter

for the wife and child—the hedge, it can shelter them till the law, in its merciful visitation, takes them up as vagabonds, and puts them in jail for the high crime of being just what the law made them; yes, sir, for being just what the law made them!

Such is the morality of your legislation—such is its humanity. Such kind of morality has existed for ages—it has been glorified on this floor. It has been intimated that stringent collection laws are evidence of a high state of civilization. Then the old Romans were a highly civilized people. Their laws allowed the debtor to be cut up and pieced out among his creditors, in proportion to his indebtedness to each. But if they preferred, they could inflict stripes, imprison or sell him and family into perpetual bondage.

Man has a natural right to a free use of air—it is an element essential to his existence. So of water—he cannot exist without it. The same is true of light—man would soon droop and die without it. But the right to these essential elements is no clearer, no more certain than the right of man to a place on this earth. This right is clearly inalienable. To deprive any man or any family of a home, and turn them out as vagabonds, under any pretence whatever, is downright tyranny. It is tyranny of the most odious character. The thing is not to be made right because it has been sanctified by the practice of ages. Age and the sanction of great names cannot turn a wrong into a right. No power can do it.

A man without a home;—what is he? Robbed of his birthright, he becomes an outcast, and made so by law. If society, if the State has a right to do this, it has also a right to put him out of the way. He with his family has no business here.

Macauley, in his History of England, tells that in the reign of Charles II. there were over one hundred thousand land proprietors. At the present time, though the population has increased four fold, the owners of the soil have decreased to about thirty thousand. The result is a vast amount of crime, pauperism, squalid misery, wretchedness, incessant toil and labor, starvation in the midst of plenty—even little children forced to work incessantly and under the lash sixteen hours per day. And yet there are gentlemen here who

would put it in the power of capital to produce ultimately such a state of things! It is a crime against humanity and against its Author to manufacture vagabonds by law. And yet the legislation of the world has done it for ages. In the city of London alone, six thousand are yearly imprisoned for debts under fifty dollars.

It is said that stringent collection laws are evidence of a high state of morality, of civilization and public virtue. Go back a little and see. Half a dozen facts are worth a thousand assertions. What was the old Roman law? One of blood, as I have already indicated.

But it is time I should bring my remarks to a close. The measure I have advocated I believe to be demanded by public sentiment, by justice and right, and cannot fail to promote the highest good of the State. So believing, I shall vote for the article, and the people will sustain it.

Mr. WOODMAN.—When I called for a division of the question, I labored under the impression that the recognition of this principle would not meet with any opposition in this committee. Yet I find that there are gentlemen at this late period, when such astonishing progress is being made in all the arts and sciences throughout the world, ready to dispute the correctness of the principle here involved. I think the gentleman from Macomb says “that this principle is not in accordance with public opinion.” If I understand the people, as one who mingles intimately amongst them, I understand that there is a well founded opinion that the principle of exemptions is right, and that we should recognize it in the organic law we are here moulding.

The gentleman [Mr. ROBERTSON] says that he pays his debts, that he always means to do so, and that he is not in debt. He is entirely correct in laying down the principle that it is right for a man to pay his debts. But the gentleman is young in years, and has not had as many years of experience as has the gentleman from Calhoun, [Mr. J. D. PIERCE.] He is an old friend of the principle, and we are happy to recognize in him the father of the homestead exemption.

The gentleman [Mr. ROBERTSON] finds fault with the language of the section: that property shall not be exempted to an amount less than \$500. As was well said

by the gentleman from Calhoun, [Mr. J. D. PIERCE,] if any man foot up the items now exempted, it would be found to exceed the amount here proposed to be exempted. And then, in this class are the personal property and the farming and domestic utensils, which will never be less in value than \$500.

Is not this principle right, and has it not been thoroughly debated throughout this State, and other States? Gentlemen know that it has. I am surprised to see a man rise on this floor to contend, in effect, to reduce the little household property of a family to nine cups, six plates, seven chairs, a few spoons and one bed, (loud laughter,) in this age of the world? In this progressive age it indeed seems strange to see them advocating an exemption to the amount, perhaps, of a paltry \$50. To that I am opposed. I am in favor of exempting for every citizen what is contemplated in this article. It is what is expected of this committee, if I know anything of the opinions of the people of Michigan, particularly of the citizens of Oakland county. I take it that the question has been settled that we shall have a homestead exemption of at least forty acres. You cannot find in my county a single man who is not in favor of that exemption. I have never heard a man express himself adversely to this exemption principle.

The gentleman tells us that he came from a country in which there are rigid collection laws. I am aware that there are such laws in that country. But I am astonished that a man coming from that country, and placing himself under the protection of our institutions, should ask us to model our laws in anywise to those of Scotland.

Mr. ROBERTSON (interposing)—I did not argue that, by any means. I desired to—

Mr. WOODMAN—That was the force of the gentleman's reasoning. He went on to say they had stringent collection laws in that country, and was surprised to see people here advocating this exemption. I think the conclusion I came to is the conclusion to which any man would come who had heard the gentleman's reasoning. I could come to no other.

He says also "that this principle is wrong." Now sir, I look around this hall,

and I am of opinion that you cannot find ten men who will rise and say exemptions are wrong. I undertake to say further, that if there be ten men here of that opinion, if they had declared such to be their opinion before the election for delegates, they would never have had a seat in this hall. I am for passing stringent collection laws; that is, stringent to a certain extent. I understand, too, that this article will act prospectively, and not retrospectively. I appeal, now, to men of business on this floor, if they do not know when trusting a man that there is an exemption to the amount of \$750? Which do they trust the more to, his honesty or his ability to pay? Surely, to the former. And do they not know that if this provision be adopted, the same rule of action will exist? Sir, I have come to no other conclusion. How has this principle operated? Well, as we all know. Do the people call for a repeal of the exemption laws? If they do, it has not come within my knowledge. Does it operate oppressively? No, sir, for the principle of exemption is progressing. I recollect, although I am a young man, seeing my father take and enclose men within the walls of a prison for debt. It is not so now. I recollect, too, when six knives and forks, one table, a chair and a bed, were all that were exempted. I regret, indeed, that the gentleman from Macomb [Mr. ROBERTSON] does not come up to the spirit of the age upon this question. The gentleman from Calhoun, [Mr. J. D. PIERCE,] who has had great experience in this matter, and who has devoted much attention to it, and to whom the people of Michigan are under lasting obligations for his efforts in the cause of exemption, quotes a collection law that was very stringent. Would the gentleman [Mr. ROBERTSON] desire to establish collection laws of such a character now?

Sir, I believe it is the intention of the committee to make the article as reported a portion of the organic law of the land; I believe it to be in accordance with the sentiments of the people; I know it is with those of the people I represent, and the reasons I have given are those which will govern me in my vote on this subject.

Mr. FRALICK—I had hoped that this matter would have been left entirely to the Legislature, where it properly belongs. I

believe it is a question of expediency merely. I believe it is a question of such a character that there should not be an article put into the organic law of the land upon this subject. I believe in fact that it is a province which of right belongs to the Legislature. But, gentlemen who say they represent the wishes of the people, seem to be afraid to leave the question in the hands of the Legislature, elected by the people. They seem afraid to leave the Legislature the power to do as they see aright in this matter. But, the question immediately under discussion is this first section. What does it propose? That the property exempted shall not be less than \$500. That is a retrospective as well as a prospective provision, as any one will undoubtedly infer from the language. I am most certainly unwilling to go for any such thing of the kind. I hope the section will not be adopted. But there are other questions connected with this subject on which I do not agree with gentlemen. I do not propose to go into this matter at length, but still I am not afraid to speak my sentiments, though I disagree with the two gentlemen last up. I was opposed to this principle, as embodied in this article heretofore, and they have not altered my mind; nor do I believe that my constituents are in favor of this measure, or ever have been. If I know their will, I think they are entirely opposed to it.

What is to be the practical result of this system? Gentlemen say it is to protect the poor classes. Does this do so? I think not. If a man have forty acres of land, improved to the extent which it might be by the operation of this provision, would you call him a poor man? I should say not. I do not think that a man so situated could be classed as a poor man, within the true meaning of the term. He is probably on the other hand a man well to do in the world. But the really poor man, the man who labors from day to day, is not protected by this provision. He cannot collect his daily wages upon which the support of himself and his family depends. No, sir, he cannot, for the right to do so is taken away from him. Yet, strange anomaly, the class least able to protect itself is the one which is left utterly unprotected by this article, and it is the one the most likely to be cheated by the class with

which gentlemen have expressed so much sympathy. I say it will operate oppressively so far as the former class—the poorer class—the men who work for their daily bread, is concerned.

The poor man has no property except his wages, the compensation for his toil; but under this provision, he cannot assert his just rights; he cannot enforce his claim for the price of his labor against the rich man; he is effectually debarred from so doing. Again, the gentleman [Mr. J. D. PIERCE] says that he wants to protect men from being turned out of doors by their creditors. Have the present exemption laws operated as the gentleman desires? Have they protected the property of men, in the manner alluded to by gentlemen? Let them ask any country merchant in fair business, and they will find that the contrary is the fact. Go into the store of any country merchant, and you will find in his safe a pile of chattel mortgages, covering a man's forty acres, his oxen, his teams, and such like property, which, whenever he may see fit, no matter for what reason, he can go in and take possession of the mortgagor's property, by giving him six days' notice, without any process of law, whatever. The law gives him that power. And who that has seen the form of those mortgages does not know that the Legislature gives this power to mortgagees? The law does not reach the object which we intended it should bear upon. I really do think that the effect will be ten times more dangerous to those individuals—the mortgagors—under the new constitution, than it would be under the present.

This whole system, I say again, is wrong, because it does not protect the poor honest man; on the contrary, it injures him. And, notwithstanding that gentlemen said we would not rise here and express our sentiments in opposition to this article, I have had the temerity, if it can be called so, to get up here and state my views, because I entertain an honest conviction—

Mr. J. D. PIERCE (interposing)—How many people are there in your township who depend on their daily bread for their subsistence?

Mr. FRALICK—There is a large number in the villages of the township.

Mr. J. D. PIERCE—And they have no homes?

Mr. FRALICK—Yes, they have some homes.

Mr. J. D. PIERCE—Have they no pigs and cows?

Mr. FRALICK—Some of them have; but the difficulty is that this class does not get credit. So that when they endeavor to obtain the pay for their daily labor, their debtor may refuse to pay them, notwithstanding he has forty acres of land.

Now, I say this principle should be stamped with a different name—it should be called a premium for dishonesty. I state this with candor, honestly believing this provision to be *that*, and nothing else in its result. You may exempt every article belonging to a man, and, if he be honest, he will pay his debts to the last farthing. But there is another class which is dishonest. There are men who will take the protection of this provision and refuse to pay their debts. I do not care how many repudiate the sentiment; you cannot controvert the fact. It is in the nature of things that a man may have exempted some five or six thousand dollars' worth of property, yet refuse to pay the poor laboring man the price of his day's work, with which he desires to obtain a meal for his family. The man of property, it is held, will receive all the advantages of this exemption principle; and I do conceive that the provision here offered for our sanction will, in its operations, prove to be a forcible auxiliary to the extension of dishonesty. In its results it cannot fail of proving so.

The gentleman [Mr. D. PIERCE] has referred to the Jews, and to the years of jubilee. I hope we are not going to pattern after the Jews. They sold their Saviour for thirty pieces of silver. What is their condition now? If we want to refer to every thing low, cheating and dishonest, refer to the Jews. I trust the gentleman does not want to take them as a model. If we wish to remove this difficulty in the community, abolish by the organic law the collection of small debts; then all will understand it. If you desire to protect the small dealers, abolish entirely the collection of debts under \$40 or \$50. But, so long as the laws exist in their present position, I maintain that exemption laws are improper. I say, leave the entire matter in the hands of the people, that they may

determine this question as their reason and sound common sense will suggest.

Mr. J. D. PIERCE—I wish to say a few words in reply to the gentleman who has just taken his seat. The gentleman says he hopes and does not want to take the Jews as a pattern or model. I did not refer to them as an example. I simply referred to a system of laws, for the violation of which they became vagabonds. I did not refer to them in their present state, as an example—merely to their laws. The gentleman says also, that they sold their Savior for thirty pieces of silver. The gentleman [Mr. FRALICK] would sell every family in the State, according to his reasoning, for a less sum. (Laughter.)

The only argument he has brought, or could bring, is easily answered. He says an honest man will pay his debts. I have no reply to make to that, and have only one question to propose to him. I ask him, in the name of common sense, how can an honest man pay his debts if he cannot earn sufficient to liquidate them? Can the gentleman answer that? No sir; nor has the question been ever answered. If you take away a man's tools, he cannot work; and you deprive him of the price of his *time*, by which he supports his family. There are few families, sir, in this State, who have not a house, or a few pigs or cows to be protected. Are not their beds and tables, and chairs, and their little domestic utensils to be protected? Yet, the gentleman would bring us back to the days when they could be all turned out of their homes to lie in a ditch, and the next day be taken up as vagabonds and put in jail, though made so by the law! I think the gentleman's argument falls by its own weight. I am happy to say that there are but few in this State so poor as not to have something to be protected.

I never knew an instance in my county where a farmer refused to pay his field hands; in fact, a man who has the name of not paying his day laborers, never gets another. That is one of the results of this system—a man must pay his debts. I knew one exception, and after a few trials, he never would be trusted, although he possessed ample funds. He never can employ a man or obtain any thing in the way of goods, unless he pays as he goes along. Such is the beneficial result of the system.

Men must pay as they go along. It strikes at the bottom of the ruinous credit system, that has overwhelmed thousands of families in ruin. That is most fully and clearly shown in McCulloch's writings upon Credit and Banking. He gives reasons in the clearest manner, demonstrating that this principle would prevent the continuance of that kind of credit which has destroyed society and made tens of thousands of paupers to be supported by the community. Go to your State prison and see how many people there are there without a home—vagabonds made so by the law—by the statute in that case made and provided.

Mr. N. PIERCE—I hope the motion to strike out will not prevail. I hear gentlemen on this floor urging the propriety of leaving blanks for the Legislature to fill up. I suppose this Convention was elected for the purpose of stopping all holes, and not for leaving blanks. I think one of the principal objects in the article is, that a restriction should be fixed.

Mr. TIFFANY—I moved to strike out merely for the purpose that the Convention might fill up the blank hereafter.

Mr. N. PIERCE—I am willing to commit myself in regard to anything pertaining to this constitution. I hope, sir, that this committee will fix the principle of exemptions within certain bounds, so that the Legislature won't come in one year and cut off one-half of it, and in the next year make the exemption three-fold more. I'm for making a system that will last for some time. If it don't work well we can amend the constitution. I would prefer an exemption that would be fixed, and not fluctuating. It is but a short while ago that the amount exempted was but small, and then it increased by degrees, until now the law exempts thousands of dollars. It has, no doubt, done good; but it don't reach the spot to which I wish it to reach. I believe the second devil in this world is usury. I don't think he takes a person into destruction quite so quick as crime; but he takes a great many more there, and tortures them with diligence, and his power has an everlasting effect. I believe that usury is the most absolute principle existing under the laws of the civilized world; and I hope the Convention will place a mark upon it before it ter-

minates its deliberations. I think "interest" or "usury" is more absolute than the power to imprison a man for debt, though that was very absolute too. Usury, sir, I think is one of the pernicious influences that destroys men, and finally brings them to misery and ruin. I hope the committee will fix the amount at a certain stated sum.

Mr. BACKUS moved to strike out the word "less," and in lieu to insert the word "more."

The motion was not agreed to.

Mr. ROBERTSON moved to strike out the words "not less than."

Mr. R. said—I hope this will suit the views of gentlemen here. This is definite, and will protect the poor man against the merciless exactions of the creditor. I do not propose, in arguing this amendment, to go back to the days of the old Roman law, for the principles of freedom were not as well understood then as now; nor to those other laws which seem to have excited the admiration of the gentleman from Calhoun, [Mr. J. D. PIERCE.] He has pored over the dusty tomes of the ancient Roman jurisprudence, until he has become quite enthusiastic against the collection of all debts. Now, I would ask, why not say that hereafter we shall have no collection of debts? That would be more in accordance with his ideas; for it would be a fearful thing, no doubt, if in these days of progress and civilization, we should establish the old Roman code, and leave the unfortunate debtor to be cut up and proportionately divided amongst his pitiless creditors! The gentleman seems apprehensive that we shall recur to those olden times. There is no danger of that.

The member from Oakland [Mr. WOODMAN] imagines, with his usual accuracy of perception, that I desire to establish the collection laws of Scotland here. I did not so express myself that such a deduction could be drawn from what I said. This I know: that inviolate honor in meeting liabilities prevails more in that country than in any other country with which I am acquainted. There, when a dealer trusted you with his goods, he did so not because he had stringent collection laws to enforce the payment of his debt, but by reason of his confiding in the integrity of the customer. I know what their laws are, for I have

had experience of them in my family. My father became unsuccessful in business. But, did his creditors, though they had those stringent laws at their command, strip him of all he possessed? By no means. They allowed him to retain his stock, and enabled him to acquire the means to come with his family to this country; and thus was afforded a chance of paying off his debts, which he did to the last farthing. Why did they trust him? For the simple reason that they had confidence in his integrity; because they knew him to be an honest man, and one who would give the last stiver to pay them. I recollect a passage in the Scriptures which says "owe no man anything." The residue of the verse I do not now remember; but the wishes of gentlemen on this subject of exemption, do not appear to be much in consonance with the inculcation of Holy Writ. The Scriptures say "pay that which thou owest;" but gentlemen say in effect here, "you shall not pay your just debts." There is another passage which says, "give unto Cæsar that which belongs to Cæsar." Cæsar was a Roman—one of those merciless, blood-thirsty Romans that cut up their debtors. Yet, the meek and loving Jesus says, "give unto Cæsar that which belongs to Cæsar."

Again, the gentleman [Mr. J. D. PIERCE] says "a debt was wiped out in seven years, according to the Jewish law." Why, sir, in this State, we wipe out a debt in six years; that is our statute of limitations. We have absolutely more liberal laws upon that subject than had the Jews themselves, whom the gentleman has brought upon the *tapis* as affording a convincing authority in support of the correctness of his position. In truth, the gentleman has pored over the history of those transactions until he has become almost infatuated on this subject. Were he to say that all laws for the collection of debts are wrong, I would go with him. He should give them a blow—an old fashioned, two-handed blow, that will cut to the chine; and, so we together would ride into the affections of the people. (A voice—on the one-horse.) That would be a still more popular method of repudiating the obligation of a debt.

I think this amendment is more consistent than the proposition of my friend, [Mr. J. D. PIERCE,] because it specifies the

amount to which the creditor can trust. For my own part, I shall say that I always do, and hope I shall always be enabled to pay my just debts. And I might further add, and I say it without any feeling of pride, that I do not owe any man. I do not want any exemption law. There are two classes of men in this country; the creditor and the debtor. I wish to protect them both; but the gentleman desires to protect the debtor only. Is it not because the latter class are the most numerous? I do not speak unadvisedly—I have had some experience in the working of this exemption principle. I have seen, in the course of my little experience, a man who perhaps was an honorable man, but who may have been in the habit of squandering his means at the tavern, eating off a table that was not paid for, off plates that were owed for, and even of meat which was cooked on a stove for which he owed. Relying upon the undue protection which the law afforded, he says to his creditor, "you cannot throw me into prison—you cannot take away these things, or force me to pay my debts—the exemption laws protect me."

But, there is one thing which might probably make this provision more acceptable. Make an exception, and say "except for labor done." The man who owns forty acres of land, and is possessed of thousands of dollars worth of property, may owe me for a days' work, as a mechanic or laborer; yet, I cannot compel him to pay me. I say then, let it be so amended that he shall be forced to do justice. Under the article as it now stands, a rich man may take my one-half bushel of potatoes and refuse to pay for them. Is it fair or just that such a person should be allowed to "chouse" me out of the fruits of my hard toil and sweat? It is manifestly unjust—the whole thing is wrong. But if we are to have this provision at all, I desire that it be made a little more definite and clear.

Mr. VAN VALKENBURGH said—Mr. Chairman: I hope this section will be adopted as reported by the committee, notwithstanding the eloquent argument of my young friend from Macomb; and trust, upon sober reflection, he will yet give it his support. The gentleman tells us the exemption laws have defeated the object of

their friends, and tended to oppress instead of relieving the poor honest man. He says, under the operation of these laws the poor man is obliged to mortgage his cattle or his last cow, in order to obtain credit; and thus, through the operation of these exemption laws, his means of support are wrested from him. That there are men, sir, who will evade all law, there is no doubt, in every community; hard-hearted shylocks, who sit like blood-suckers on the body politic, crying, give, give. Men whose hearts are steeled, and whose ears are deaf to the cry of the afflicted. But these are exceptions; a shame and disgrace to our race.

I had hoped, sir, this measure would meet with no opposition in this enlightened body, and in this age of progress and improvement. I look upon the stringent collection laws, as they heretofore existed, and as they still exist in some portions of the world, as the relicts of barbarism—the remnants of the old Roman code, which would sell a man into bondage—incarcerate him within the walls of a prison, and send his family to the poor-house, for his misfortunes. The delegate from Macomb tells us this principle is not in accordance with public opinion—that public sentiment does not demand this measure at our hands—that if it is the *vox populi* it is not the voice of God.

I know not what atmosphere the gentleman has lived in, sir, but so far as I have been able to learn, the *vox populi* is universally in favor of this measure; and in this instance, at least, the *vox populi* is the *vox dei*. So far as I have been able to read public opinion, this principle is universally approved by all men, except the class to which I have heretofore alluded. The gentleman from Macomb [Mr. ROBERTSON] tells us “he is not in debt—that he always pays his debts.” This is right; this is proper; and I trust the gentleman does not arrogate to himself any merit on this account. It is barely just—a duty every man is bound to perform; and a duty every honorable man who can do so will perform. Nor is it strange that my young friend, with his talents, his energy, and his profession, should have done so; it is what all would expect of him. But let me warn my young friend that even with him the day of adversity may come; for

“the battle is not to the strong nor the race to the swift.” Afflictive Providence may chill the current which now courses through his veins, and dim the lustre of those eyes which now beam so brightly; “riches take to themselves wings and fly away.” Experience has taught us that youth and talent, and energy, are not proof against the calamities incident to human nature. The proud, the talented and the honorable have sometimes been glad to avail themselves of similar beneficent provisions in our laws. The gentleman from Wayne [Mr. FRALICK] tells us the exemption laws protect the dishonest portion of community alone; that a man worth five or six thousand dollars may withhold from the poor honest laborer his daily wages, the means of subsistence; that every good business man, and he tells us there are many in this State, have large piles of chattel mortgages, nearly as many as they have customers. I ask the delegate from Wayne, will these shylocks, who multiply their chattel mortgages, be less exacting without these exemption laws? Will they not find means to evade any law, that interferes with their object? This gentleman [Mr. FRALICK] wishes to leave this subject with the Legislature. He thinks we ought not to incorporate it into the organic law; he says he has always been opposed to it, and has not altered his mind; and the great reason of his opposition is that it oppresses the poor laboring man. His sympathy gushes out and runs over for the poor laboring men. Verily, they must be much indebted to this gentleman.

The delegate from Macomb [Mr. ROBERTSON] tells us that in his native country [Scotland] few law suits are brought; that in this country there is a thousand times more litigation; he says there is an unhealthy state of public opinion on this subject; and if his previous statement is true, that public opinion is opposed to this measure, I agree with him that it is a perverted public sentiment. But the gentleman says if it is demanded by the people, the *vox populi* is not the voice of God; and to sustain his position, he refers us to the law. He says we read somewhere, “owe no man anything;” but has forgotten the context: “but to love one another.” I think the gentleman would hardly have brought this passage to his support had he recollected

its connection. Love works no ill to his neighbor—does not wrest from the poor man his last cow, incarcerate him in prison, and cast his family penniless on the world.

But the gentleman makes further quotations from the bible, and admits its authority. He says we read elsewhere, "pay what thou owest." In this quotation he is equally unfortunate, for this sentiment is taken from a parable uttered by our Savior, to inculcate the spirit of the article we advocate, and to which the gentleman is so much opposed.

A certain king took account of his servants and found one who owed him ten thousand talents; but forasmuch as he had not wherewith to pay, his lord commanded him to be sold, and his wife and children, and all that he had, and payment to be made; for this was the law in those days of barbarism. But the servant knelt down and worshipped him, saying, "lord have patience with me and I will pay the all." Then the lord of that servant was moved with compassion, and loosed him, and forgave him the debt. But the same servant went out and found one of his fellow servants which owed him an hundred pence; and he laid hands on him, and took him by the throat, repeating the language the gentleman has quoted for his authority, "pay me that thou owest." And his fellow servant fell down at his feet, and besought him, saying, "have patience with me and I will pay thee all;" but he was inexorable, and cast him into prison until he should pay the debt.

And this is the language, and this is the example the gentleman wishes us to imitate. But let us examine this parable a little farther. When the king was informed of his conduct, he called him before him and remonstrated with him, saying, "O, thou wicked servant, I forgave thee all that debt, because thou desiredst me. Shouldst not thou also have compassion on thy fellow servant, even as I had pity on thee?" And his lord was wroth and delivered him to the tormentor till he should pay all that was due unto him. And our Savior adds, "So likewise shall my Heavenly Father do also unto you, if ye from your hearts forgive not every one his brother their trespasses." Had the gentleman been more familiar with his bible, he would hardly

have attempted to force this parable into a service so much at war with his doctrine.

We boast, Mr. Chairman, that we live in an age of progress, in a day of reform, and we hope soon to see these relics of the dark ages, these vestiges of barbarism, blotted from our statute books; we hope to see the time when man shall recognize in his fellow man a brother; when we shall practice upon the precept—"owe no man anything but to love one another;" when the cupidity of man shall not be aided and encouraged by oppressive laws.

Let us, Mr. Chairman, let us, gentlemen of the Convention, lend our aid to advance this object—let us be true to ourselves, true to our constituents, true to the cause of humanity—let us incorporate this provision in our constitution, and we shall do much to alleviate human misery and elevate our race.

Mr. BRITAIN was opposed to striking out, as proposed by the gentleman from Macomb, [Mr. ROBERTSON.] It would fix the amount so that it could not in any way be changed. The probability was that the motion was made for no other purpose than that of injuring the strength of the friends of the principle.

Mr. J. D. PIERCE (Mr. B. giving way) —I propose to add at the end of the section the following, so as to do away entirely with the idea that this provision is to be retrospective in its action: "issued for the collection of any debt contracted after the adoption of this constitution."

Mr. BRITAIN—I desired to make a few remarks in relation to this principle of exemption before the subject is disposed of, and I hope the committee will bear with me for the purpose.

In the beginning, allow me to premise by saying that I believe there is not a man in this Convention, nor in the State of Michigan, who will not be found, upon mature investigation, to be in favor of the principle of exemptions. Why, sir, without it no man would be permitted to use anything of value while he remained a debtor. The last articles of food and clothing might be taken by the creditor. Yes sir, even the prepared breakfast of the hungry family might be taken to fatten the swine of the creditor, and the person of the debtor might be manufactured into soap

for his benefit. Sir, humanity shudders at the thought of such enormities! All men find themselves in favor of exemption, and the only difference existing between parties is as to the amount to be exempted.

Before entering upon the investigation of this difference of opinion, I beg permission to call the attention of the committee to an error into which persons are very likely to fall when legislating upon this or any other subject. They forget the imperfections of humanity, and forget every thing else except the particular thing upon which they are then engaged, and calculate upon the attainment of perfection in that particular thing. For instance, if we take a man who is engaged in loaning money at high rates of interest, and in buying notes at a discount, what kind of a collection law would he expect at your hands? Why, sir, without thinking of the necessities of the wife, the children or the neighbors of the debtor, he would, like the gentleman from Wayne, expect a law which would secure to him a perfect fulfillment of every contract made by him with his less sagacious neighbors, or a remedy which would be as fatal to their happiness as the inquisition of Spain. What would any other person, engaged in any active business, expect at your hands? Why, sir, he would expect a law which would secure the perfect accomplishment of all his undertakings under it.

Mr. Chairman, there is such a thing as friction in machinery, and the mechanic who does not make allowance for it is behind the age. Imperfection is also stamped upon everything which pertains to humanity; and this Convention, when thinking of this subject alone, must come to the conclusion that it is not possible to frame a law which shall, in all cases and under all circumstances, accomplish what its framers desired to accomplish.

Mr. Chairman, I now beg leave to go back to the principle of exemptions. I have already stated my opinion that every man was in favor of exemptions, and that the only real difference of opinion was in regard to the amount to be exempted. In ascertaining the specific amount which should be exempted, I think we should ascertain what interests are to be affected by it, and what the well being of those inter-

ests requires; and in this way, there will, I think, be very little difficulty in ascertaining the amount; for, in truth, there is but little difference between the real wants of the different members of society.

Now, sir, what are the great interests to be affected by exemptions, and what does the well being of those interests require? The great interests to be affected are undoubtedly three:—the debtor interest, the public interest, and the creditor interest; and I am equally confident that we shall find that the well being of each of these interests requires the same thing.

1st. What does the interest of the debtor require? It certainly must be manifest to every observing person that the interest of the debtor requires that he should have a sufficient amount exempted to sustain his own life and the lives of his family, to secure to him his books of profession, tools of trade, teams, and implements of occupation, and whatever is necessary to enable him to prosecute some industrial pursuit, until he can pay his just debts. These are undoubtedly what the debtor interests require.

2d. What does the public interest require? And I am here asked what the public has to do with this matter? Why, sir, if the public has nothing to do with this matter, who has any thing to do with it? Are the people not interested in keeping in every man's hands the ability to support himself and his family, and even to educate them, and thereby prevent them from becoming chargeable upon the public for support? Is not that so? And have not the public a right to say by their laws to every man, beforehand, "if you trust A., B. or C., you must trust him only for what he may be able to pay, over and above what is necessary for the support and education of his family?—and you shall not take from him his last farthing, turn him and his family out upon the world, a burden upon society for us to support?" If they have not a right to say that, I confess I do not know what they have a right to say; and I therefore repeat the question: What does the public interest require? It certainly requires just what the debtor interest requires. It requires a sufficient amount of the right kind of property to be exempted to enable the debtor to support himself and family, prevent them becom-

ing chargeable upon the public for support, and to pursue some industrial calling until he can pay his just debts.

3d. What does the interest of the creditor require? When I speak of the interest of creditors, I mean the whole creditor interest, and not the interest of one creditor, who may collect his debts at the expense of all the other creditors. Does not the creditor interest require precisely what the interest of the debtor and the interest of the public require? Does not the interest of the creditor require that the debtor should have exempted a sufficient amount of property to enable him to support his family more cheaply than they can be supported for him, and to follow some industrial pursuit until he can pay all of his creditors? Why, sir, if it is not so, I must confess I have looked upon the creditor interest for the last twenty years to no purpose.

Now, Mr. Chairman, if the debtor interest, the public interest, and the creditor interest; if all of these great interests require that property enough should be exempted to support the family in the first place, and to enable every man to pursue some industrial calling in the second place, I should like to know what great public interest there is which will be prejudiced by such an exemption? Sir, I have not been able to find any.

Mr. Chairman, there is an active branch of public interest, the well being of which requires such an exemption as I am contending for—I mean public morals. Sir, every community holds each of its members responsible for the support of his own family, under all circumstances. Now, sir, how can a man support his family honestly when you permit the creditor to strip him of the means of supporting them. Sir, he cannot do it. The only way in which he can support them, if exemption be denied him, must be by a fraudulent concealment of his property; and so imperiously does public sentiment demand of him the support of his family as to compel him to commit this fraud upon the law, and to justify him for doing so. Now, sir, is it not manifest that your laws should be in conformity with public sentiment, and so framed that the citizen may perform all the duties required of him by public sentiment and public interest with-

out violation of law? And how can you expect a conscientious respect from any portion of the community for a law which another portion of the same community not only violate with impunity, but even with approbation?

What do the opponents of this measure propose to do? Do they attempt to promote any one of these great interests? Have they attempted to show that any great general interest would be prejudiced by the passage of an exemption law? No, sir; they have carefully avoided all discussion of general principles, and have endeavored to defeat the article by making objections which merely refer to the details of the bill, and have nothing to do with the great principle involved.

Mr. Chairman, what is the object of the friends of this article? It is, sir, to protect and promote each of those great interests of which I have been speaking. In what manner do we propose to accomplish this desirable end? Why, sir, simply by leaving enough in the hands of the poor debtor to enable him to live honestly, until he can meet all his obligations, and thus, so far as relates to the necessities of life, placing him upon the same footing as the rich man.

This would of course promote the debtor interest, by enabling the debtor to live until he can pay his debts. It would protect the public interest by relieving the public from the support of the debtor's family. It would protect and even promote the creditor's interest, by preventing one creditor from destroying a debtor to the prejudice of all the other creditors. It would improve public morals by removing all necessity for theft, perjury and fraud, and enable you to punish every violation of law as an unnecessary crime; and it would, in my opinion, secure more happiness, more honesty, and a larger amount of property in the hands of the whole people for the support of life, than could be secured by any other measure.

Now, Mr. Chairman, before taking my seat, I wish to call the attention of this Convention to two things:

1st. The value of life, compared with that of property, in the estimation of the people.

2d. The value of life, compared with that of property, as shown by the legisla-

tion of the different nations of the world.

I know, sir, it will be said on first thought, that this is no comparison, and in truth I think there is none. If you have a shipwreck or a conflagration, and the loss of property and of life, do you stop to think over the mere loss of property? Or, even suppose some wealthy man becomes a sufferer, both pecuniarily and physically, what would you think of the neighbor who would condole with him about his losses, instead of sympathising with him in his sufferings? Would you not say he knows nothing of the claims of humanity? These are the sentiments I have heard advanced by the great body of the people from my earliest recollections; and they are proof to me of the very high estimate in which life is held by a great majority of the people, when compared with property.

But, sir, has this general sentiment of the people directed the legislation of this or any other age, and become engrafted upon the institutions of this or any other country? Has the legislation of this or any other country been for the people, and the property only as a necessary support of the people? Sir, it is not so. The legislation of the age and of the world has been for property, not for life; and life, as estimated by the civil institutions of the age, is not worth two-and-sixpence. It is in fact worth nothing in the eyes of the law, when compared with property. Capital and the companies of capitalists have filled your halls of legislation, and have given to the owner of property an individuality of possession which places property entirely above the claims of humanity.

Go with me into Ireland, where, a few years ago, thousands were dying from starvation, whilst the store-houses were loaded with provisions in the midst of that starving, dying population; yes, sir, even provisions which had been produced by the labor of that starving population, and ask what life was worth then compared with property. The price of subsistence was enhanced by its scarcity. The profits of the property-holder were increased by the distresses of the country, while under the protection of the strong arm of the law he saw his neighbors dying, one after another, for the want of a few shillings with which to purchase from him a portion of the food which their own sweat and toil had furnished him with.

The sympathies of our citizens were aroused throughout the length and breadth of the land, and our ships, laden with provisions, crossed the Atlantic to relieve the distresses of the destitute; but who ever heard the right of the famishing laborer to take without pay one shilling's worth of his landlord's provisions advocated? Or who ever heard questioned the right of the landlord to hold every shilling's worth of his property until paid for it? It was said, I believe with truth, that in some instances the arrival of our provision ships was hailed with indignation by the property holders, from a fear that the price of provisions would be cheapened thereby. Of how much value was life, compared with property, in that country?

Mr. Chairman, I have now reached what I consider to be a critical point in the argument, and I do not wish to be misunderstood. It is no part of my object in this investigation to weaken this individuality of possession. This would be looking to the wrong quarter for a remedy, and I would much sooner even strengthen it; but it is my object to show the propriety of permitting every individual to extend his individuality of possession over a sufficient quantity of the necessities of life to banish famine from his dwelling. Nor have I called this subject before the Convention merely to excite indignation against the property holder; but on the other hand, I am always willing to attribute things done to the best motives, and to make the best apology for poor, erring humanity of which I am capable. While some of the property holders sold their provisions from choice, for a high price, no doubt there were others who sympathized deeply with their suffering neighbors, and would have relieved them if they could have done it with safety to themselves. But as but a small portion of the people had been engaged in producing subsistence, there was not a sufficient quantity in the country for its inhabitants. Had they opened their doors to the starving multitude, they would soon have been starving themselves; and they were compelled, by the law of self-preservation, to see their neighbors subjected to all the horrors of starvation. But, Mr. Chairman, what does all this prove? and what ought we to learn from it? Why, sir, it proves at least two things.

1st. That there is no safety or security for life in any system which permits a large portion of the necessities of life to be monopolized by a few individuals.

2d. The estimate placed upon life by the great body of the public, when compared with property, forbids the taking of the necessities of life from an individual, under any pretence whatever.

As representatives of a part of the public, we ought to learn that it is an imperious duty, under the instruction of this public sentiment, to secure to every man's hands, beyond all possible contingency, the ability to support himself and family.

And we ought, also, as the representatives of a part of that public, to feel that it is our imperious duty, under the instruction of this public sentiment, to secure to every family, beyond every possible contingency, the ability to support themselves, by prohibiting the alienation of the homestead without the consent of the wife, and thus forever, so far as we are concerned, put an end to that system of monopoly in subsistence which makes the price of bread the price of life.

Mr. Chairman, I have, I think, shown the debtor interest, the public interest, and the creditor interest, all require the establishment of the exemption policy. I have confined myself to general principles, because no principle which is right in itself should be rejected because individuals differ about the operation of the details necessary to its establishment. It would be equally practicable to answer the numerous objections which gentlemen have so ingeniously urged against the necessary details for the purpose of drawing the attention of the committee from the real merits of the bill. I should delight to do it; but as that belongs to the Legislature, and not to this Convention, I will not.

Mr. Chairman, I am extremely grateful to the committee for the kindness with which they have listened to me during this discussion, and will no longer trespass upon their patience.

Mr. DANFORTH—I hope the friends of this article will let it come to a vote. There is not a member in this chamber who does not know that the whole matter lies in a nut shell. I hope that no farther time will be lost in the discussion of this article. Every man is familiar with this

question of the exemption of property. I hope there is a large majority in this committee in favor of the principle. It would be difficult to collect a hundred men in this State who would go against it—in fact it is what the people demand at our hands. There is no necessity for further discussion upon this subject, for every one is well acquainted with all the bearings of the question.

The question was then taken upon Mr. ROBERTSON's motion to strike out, and was lost.

The amendment offered by Mr. J. D. PIERCE was agreed to.

Mr. TIFFANY, on leave, then withdrew his amendment.

Mr. MASON moved to strike out the words "resident of," in the first line, and substitute in lieu the words "person in."

The motion was not sustained.

Mr. TIFFANY moved to strike out "resident," and insert instead the word "householder," which was not agreed to.

The second section was then read, as follows:

"The homestead of every family of not less than forty acres, which shall not be included in any city, village, or recorded town plat, or in lieu thereof, any lot in any city, village, or recorded town plat, shall not be subject to forced sale for any debt hereafter incurred; nor shall the owner of such homestead, if a married man, alienate the same by any deed of conveyance, without the consent of his wife, obtained in due form of law."

Mr. ROBERTSON moved to amend by striking out the words "less" and "forty," in the first line, and substituting therefor the words "more" and "eighty."

Mr. R. said it seemed to him that eighty acres were enough for any man to have exempted. He made this motion because the people of his county instructed him to go for an exemption to that amount. He was in favor of a homestead exemption, but was for leaving personal exemptions to the control of the Legislature.

Mr. J. D. PIERCE hoped that the motion would not prevail. This provision was in accordance with the law as it now stood. The section left it in the power of the Legislature, in whom he, as well as the gentlemen from Wayne and Macomb, [Messrs. FRALICK and ROBERTSON,] had some confi-

dence, to increase the amount whenever the people might desire.

The motion was not sustained.

Mr. FRALICK moved to insert after the word "the," in the first line, the word "recorded." He would be glad to have this word inserted, so that every man could know what a homestead was. In his opinion it was right, and the interests of the community demanded, no matter what this homestead might be, that the public should know it as such—know that it was property covered by the provisions of this article.

Mr. J. D. PIERCE was sorry to be obliged to oppose this amendment. He trusted that the friends of the provision would not be deceived by the motion. If this word was inserted, the effect of the provision would then be that a family could be turned out of their homestead, if it were not "recorded."

Mr. COMSTOCK expressed himself as being opposed to the amendment.

The question on the adoption of the amendment was then put and lost.

Mr. COOK moved to amend by inserting after "plat," in third line, as follows: "or an amount of land equal in quantity to one lot in such village or city on which the dwelling house is situated."

The motion was not sustained.

Mr. ROBERTSON moved to insert after "incurred," in third line, the words "except for the purchase money thereof."

Mr. J. D. PIERCE—I think there is no necessity for that. The man who sells the property will no doubt take care of his own interests by a mortgage upon the land.

Mr. ROBERTSON—What effect will the last provision have unless you insert, "except for the purchase money, &c.?" Cries of question—question.

The amendment was disagreed to.

Mr. TIFFANY moved to insert after "plat," in 3d line, the words "to the value of one thousand dollars."

Which was disagreed to.

Mr. BEARDSLEY moved to strike out "forty," in line one, and insert "eighty."

But the committee refused to so amend.

Sections 3, 4 and 5 were then severally read as follows:

"Sec. 3. The homestead of any family upon the death of the owner thereof, shall likewise be exempt from the payment of

his debts, contracted after the adoption of this constitution, in all cases where any minor children shall survive the death of such owner, for their benefit and support during minority.

"Sec. 4. Whenever the owner of any homestead shall decease, leaving a widow, but no children, the same shall also be exempt, and the rents and profits thereof shall accrue to her benefit during the time she shall remain a widow; provided she be not the owner of a homestead in her own right.

"Sec. 5. The real and personal estate of every female, acquired before marriage, and all property to which she may afterwards become entitled, by any gift, grant, inheritance or devise, shall be and remain the estate and property of such female, and shall not be liable for the debts, obligations or engagements of her husband."

Mr. ROBERTSON moved that the committee rise, report progress and ask leave to sit again; but the committee refused to rise.

The article entitled "Punishment of Crimes" was then taken up.

Mr. WOODMAN moved that the article be passed over for the present, which was not agreed to.

The article was then read, as follows:

"Sec. 1. The punishment of death is forever abolished in this State."

Mr. CRARY moved as a substitute for the article the following: "Human life shall be held inviolable."

The substitute was not sustained.

The committee then proceeded to the consideration of the article entitled "Township Officers and Government;" which was read, as follows:

"Sec. 1. The duties of each organized township shall be performed by one supervisor, one township clerk, one school inspector, not exceeding four justices of the peace, and not exceeding four constables. The legislature shall provide for their election, and define their respective duties."

Mr. ROBERTSON moved to strike out "the duties of," in the first line, and insert "there shall be elected in;" but the committee refused to so amend.

Mr. WOODMAN moved to strike out "duties of," and insert "township government of," which did not prevail.

Mr. ALVORD moved to strike out "one school inspector," in second line; but the committee refused to strike out.

On motion of Mr. N. PIERCE, the following was added to second line: "and so many overseers of highways as there are highway districts."

On motion of Mr. HASCALL, the words "and terms of office," were added to the end of the section.

Mr. GALE moved to insert after "treasurer," the words "two highway commissioners, one poor master."

On motion of Mr. NEWBERRY, "two" was stricken out, and "one" inserted.

The amendment of Mr. GALE was then adopted as amended.

On motion of Mr. ALVORD, "and compensation" was inserted at the end of the section.

On motion of Mr. VAN VALKENBURGH, the committee rose, reported progress and asked leave to sit again on the article under consideration, and to be discharged from the consideration of articles entitled "Exemptions and the Rights of Married Women," and "Capital Punishment." The committee, then, through their chairman, reported back the article entitled "Exemptions and the Rights of Married Women," with an amendment, in which the concurrence of the Convention was asked; and the article entitled "Capital Punishment" without amendment.

On motion, the Convention adjourned.

Afternoon Session.

The PRESIDENT called the Convention to order.

A quorum of members being in attendance,

On motion of Mr. HANSCOM, the Convention was resolved into a committee of the whole on the general order, Mr. HANSCOM in the chair.

The committee resumed the consideration of the article entitled "Township Officers and Government."

Mr. CHURCH offered the following as a substitute for the article:

ARTICLE —.

Townships and Township Officers.

"1. Each township, duly organized by law, shall be a body corporate and politic,

with such rights, duties, powers, privileges and immunities, and such powers of local legislation, to be uniform throughout the State, as shall be prescribed by law. All suits and proceedings by or against any township shall be in the name thereof. And there shall be elected in each township three supervisors, who shall hold their offices for three years; two school inspectors, who shall hold their offices for two years; and annually, on the first Monday in April, a township clerk, township treasurer, and such number of constables and overseers of highways as may be provided by law. The supervisors and school inspectors, at their first election, shall be divided by lot into numbers, so that one supervisor and one school inspector shall be elected annually."

Mr. CRARY called for a division of the question, and moved that the first part of the foregoing, to and including the word "thereof," should stand as a new section of the article.

The motion was agreed to.

The question then turned upon adopting the residue of the proposition as a substitute for section 1; and the same being put, was lost.

On motion of Mr. BACKUS, the following was substituted for section 1:

Sec. 1. There shall be elected by the people annually, on the first Monday of April, in each organized township, one supervisor, one township clerk, one township treasurer, one school inspector, not exceeding four constables, and one overseer of highways for each highway district in such township, in whom, together with the justices of the peace, not to exceed four, shall be vested the township government, to be defined and limited in such manner as the Legislature shall prescribe.

Mr. BUSH offered the following as a substitute for the article:

Sec. 1. All city, town and village officers, whose election or appointment is not provided for by this Constitution, shall be elected by the electors of such cities, towns and villages, or of some division thereof, or appointed by such authorities thereof as the Legislature shall designate for that purpose. All other officers, whose election or appointment is not provided for by this constitution, and all officers whose offices may hereafter be created by law,

shall be elected by the people, or appointed, as the legislature may direct.

Sec. 2. When the duration of any office is not provided by this Constitution, it may be declared by law; and if not so declared, such office shall be held during the pleasure of the authority making the appointment.

Sec. 3. The time of electing all officers named in the article shall be prescribed by law.

Sec. 4. The Legislature may declare the cases in which any office shall be deemed vacant, where no provision is made for that purpose in this Constitution.

The substitute was not adopted.

Mr. BRITAIN offered the following, to come in as a separate section:

"The Legislature shall secure to the inhabitants of every United States surveyed township, having fifty inhabitants, a separate organization, provided the township left contain fifty inhabitants."

This (said Mr. B.) might be looked upon, at first sight, as an unimportant amendment. But, if gentlemen would recollect that we had a large amount of unsettled territory, they would see the necessity of encouraging the people of the townships with the certainty that when they had a certain number of inhabitants, they could organize a government for themselves.

The amendment was adopted.

On motion of Mr. WARDEN, the committee rose, reported the Article back with the amendments, asked the concurrence of the Convention therein, and to be discharged from the further consideration thereof.

On motion, the article entitled "Township Officers and Government," with the amendments thereto, reported from the committee of the whole, was laid upon the table, and the committee discharged from the further consideration thereof.

The article entitled "Exemptions and the Rights of Married Women," was then taken up, and the question being upon concurring in the amendment made by the committee of the whole, the Convention concurred therein.

The article being then open to further amendment,

Mr. MASON moved to amend by striking out the words "resident of," in the 1st line of section 1, and inserting in lieu thereof, the words "person in."

I offered this (said Mr. M.) in committee of the whole, but it was rejected there. I hope, however, that the Convention, on reflection, will adopt this amendment. I trust that those who have expressed a warm friendship for foreigners coming into this State, will support the motion. I think gentlemen will see the justice of this proposition. Suppose a family emigrate from Canada, or from N. Y., to this State, with the expectation of living in the western part of Michigan, and on their way there, a creditor pursues them and attaches their household property—would the provision as it now stands in the section, exempt that property? It would not; for the owner of the property would not be a "resident" until he reached his home. A man is not a "resident" by merely crossing over the State line. He is not one until he has a fixed and established residence. Even if it were true, as had been intimated by some gentlemen, that the moment an emigrant passes the State line he is a resident, yet it would be a question open to litigation. Gentlemen will certainly admit that it is a question of some doubt. It is one of doubt in my mind. I can see no objection to the amendment, at any rate, and I hope it will be adopted.

Mr. HANSCOM—I regard the amendment as entirely unnecessary. In my opinion the term "resident," as used here, embraces every human being; and the moment a man sets his foot within the limits of the State, he becomes a resident. It strikes me that the other word which has been suggested in lieu of the word "resident," would lead to some confusion. The word which we now use in the section has a fixed, determined meaning, and is much better.

Mr. CRARY—I suppose the word "resident" is sufficient to cover all the ground which we desire to cover in this article. I believe Judge Story decided that when a man leaves one place of residence with the intention of going to another, the place to which he is going to take up his residence, is his home. Our object is to protect the people of our own State. If persons be going to Illinois, making Michigan a part of their route, they must take care of themselves. However I have no objection to strike out and insert as proposed.

Mr. MASON—There are many men

who leave other places for the west without any fixed purpose as to their residence. Who does not know that thousands and thousands start from the east, or the old country, or Canada, with the intention of settling in the west, yet having but a vague idea as to where in the west they will take up their residence? Sir, a great many are driven from Canada by oppressive laws upon the very subject to which this article has a reference. That they may be at liberty, they are compelled to flee to this country. Well, unless they have some fixed locality determined upon, they are not residents, even according to the construction of the gentleman from Calhoun [Mr. CRARY.] They must have some place in their mind's eye which they have decided to make their home. But how many are there as I before remarked, who entertain nothing but mere vague ideas in relation to their place of residence, who merely intend to "settle in the west?" I confess I do not see how such persons would come within the definition of the word "resident," as used in this section. It is in my opinion entirely too narrow ground to confine our protection to those only who live within our boundaries.

Mr. CORNELL—Does the gentleman intend to protect rogues?

Mr. MASON—I have said no such thing. I do not desire to protect any dishonest man. I say there are very many men, not rogues; honest men who have sacrificed all their property in Canada, and have been compelled to come over here in order to escape imprisonment for their debts. If the words which I propose to insert be not inserted in the constitution, I do think that their property here would be still open to seizure. I ask those who are so fond of advocating the claims of foreigners to come up and support this proposition.

Mr. BAGG—I think the gentleman need not be much troubled about those who come from Canada; for, on a former occasion, I heard him say that they would swear to any thing.

Mr. MASON—I was then talking about people who were drunk voting at elections; nor did I confine my observations to Canadians exclusively.

The question upon adopting the amend-

ment, [Mr. MASON'S,] was then put and lost.

Mr. NEWBERRY moved to strike out the word "less," in the first line of second section, and insert in its stead the word "more."

The yeas and nays being ordered upon the adoption of the amendment, the same were had, and resulted as follows:

YEAS—Messrs. P. R. Adams, Axford, Backus, Ammon Brown, Burns, Carr, Choate, Church, Comstock, Cornell, Crouse, Dimond, Fralick, Gibson, Graham, Green, Harvey, Hathaway, Lee, Mason, McClelland, Moore, Mowry, Newberry, Robertson, E. S. Robinson, Rix Robinson, Sturgis, Sutherland, Tiffany, Wait, White, —32.

NAYS—Messrs. W. Adams, Alvord, Arzeno, Bagg, H. Bartow, Beardsley, Britain, Bush, Chandler, Conner, Cook, Crary, Danforth, Eastman, Eaton, Gale, Gardiner, Hanscom, Hart, Hascall, Kingsley, Leach, Lovell, Marvin, Mosher, O'Brien, Orr, J. D. Pierce, Prevost, Soule, Storey, Sullivan, Town, Van Valkenburgh, Warden, Webster, Whitemore, Williams, Woodman, President—40.

So the motion to so amend was not sustained.

Mr. FRALICK—I propose to add to the first section these words: "Provided, such personal property so exempt shall be designated and defined by law."

I think it is necessary, and right, and proper, that if we are to have an exemption, large or small, the property exempted should be defined by law. A man may have \$5,000 worth of property, yet there is no way pointed out of ascertaining it. If we are to have an exemption of any kind, let it be defined. If a man shall have four horses, six cows and one hundred sheep, and all the other necessities of a farm, let them be all designated by law, so that all parties may be aware so much is exempted.

Mr. J. D. PIERCE (in his seat)—They are already specified.

The yeas and nays being ordered upon the proposition,

Mr. J. D. PIERCE hoped the motion to amend would not prevail. The Legislature will have the power to define, and prescribe by law what property shall be exempted. If they do not, it will render this

article null and void. That must be seen at once. The Legislature will take care of the matter.

The question was then put and lost by the following vote:

YEAS—Messrs. P. R. Adams, Axford, Backus, Ammon Brown, Carr, Church, Cornell, Crouse, Dimond, Eastman, Fra-
liek, Gibson, Graham, Hathaway, Lee, Moore, Mowry, Newberry, Orr, E. S. Robinson, Rix Robinson, Sturgis, Sutherland, Tiffany, Wait, White, Williams, President—28.

NAYS—Messrs. W. Adams, Alvord, Arzeno, Bagg, H. Bartow, Beardsley, Britain, Bush, Chandler, Choate, Comstock, Conner, Cook, Crary, Danforth, Eaton, Gale, Gardiner, Hanscom, Hascall, Leach, Lovell, Marvin, Mason, McClelland, Mosher, O'Brien, J. D. Pierce, Prevost, Robertson, Soule, Storey, Sullivan, Van Valkenburgh, Warden, Webster, Whittemore, Woodman—38.

Mr. BACKUS moved to strike out in section 1 the words "exempted to the amount of not less than five hundred dollars," and to insert in lieu thereof the word "exempt."

Mr. B. said he would state briefly his reasons for proposing to so amend. The proposition now before the Convention struck him as involving the whole of the consideration, whether this State was about to sanction or not to sanction the enforcement of debt by the operation of law; or, in other words, were we or were we not to have a system of credit. The will of the Convention to abandon the credit system had been well expressed here by the course they had taken. For his own part, he did not know but that it was the better way. They had withdrawn from the operation of an execution the personal property of every man to the amount of five hundred dollars, to be extended beyond that by legislative enactment.

He, for one, was in favor of providing against the enforcement of a debt by execution. What was the difference in principle between a man's owing a thousand dollars or five hundred—ought not the protection of the provision to extend to the one case as well as to the other; if we were to have the provision at all? Again, if a man got credit to the amount of four or five hundred or a thousand dollars, what

was the security which his creditor had for the payment of the debt? The man's honor. Then the same reason that existed for trusting to a man's honor to this amount, equally applied to reposing confidence in his integrity for credit given him to the amount of two or three thousand dollars. If we placed a provision amended as he proposed in our constitution, there would be no proceedings at law, by the forced operation of our legal tribunals, for the enforcement of a debt. It would in fact save a great deal of labor and trouble. He, for one, would say, extend this exemption to the entire of our community—to the entire of our property. If we did not, a poor individual in straitened circumstances would be pounced upon by some 'Shylock,' as was remarked by the worthy delegate from Oakland, [Mr. VAN VALKENBURG,] in tones of thunder, "and the last dollar exacted from him." He would go with the gentleman in exempting them all, and say that no man should be held liable to the amount of one dollar; so that if any one gave credit, it would be upon the honor of the debtor only.

He made the proposition for other reasons; and he would be allowed to remark here that he would prefer to have the subject left to the discretion of the Legislature, to provide according to the exigencies of the times, rather than that this body should fix the minimum and leave the residue open. It was suggested here that if the legislature did not act upon the article by legislative enactment, there would be no exemption. He begged leave to differ from gentlemen in this respect. For on the very face of your fundamental law would be this provision: "The personal property of every resident of this State shall be exempt to the amount of not less than \$500 from sale on execution," &c., &c. There was not a citizen in this State—let the legislature do what it might—the property of whom was not exempted to that amount from any process arising out of our courts of law or equity.

But, there was no limit to the exemption; and whatever controversy there might be, would arise under the execution laws. The officer came with his execution; but who was to decide what was exempted? Here, for instance, was a man with his household furniture, or with the various

implements of agriculture; or perhaps he had a set of useless traps which to him made up a subsistence; was the creditor or the debtor to say which made up the \$500 exemption? The execution is levied upon all the property except \$500 worth. Suppose an individual had \$500 worth of hardware, and the creditor was to decide as to what should be exempted. He might strip his debtor of every bed and piece of household furniture he possessed, and leave him homeless and almost houseless, with a set of hardware stoves. (Laughter.) In fact he would go farther than other gentlemen, and would say that no debts hereafter to be contracted should be predicated in any way upon the property of the debtor, or any property hereafter accruing to him.

Mr. SUTHERLAND—I would suggest to insert the word "real," after the word "personal."

Mr. BACKUS (in his seat.)—"Sufficient for the day is the evil thereof." The second section has that in it already.

Mr. SUTHERLAND observed that the gentleman last up said he was willing to go as far as other gentlemen, in exempting property. He concurred with him in all he had stated. But he desired him to extend his generosity a little further, and let every person have exempted whatever little real property he might, from time to time, become possessed of.

Mr. BACKUS remarked that he would, in the second section.

Mr. SUTHERLAND (continued)—One of the principal reasons that he had for supporting this provision was, that it was a simple one, so that whatever exemption we would have, would be in simple and plain language. Our present exemption laws were attended with a great deal of litigation; but if this proposition [Mr. BACKUS] be carried, the matter was forever put at rest. There would be much litigation prevented; and for that reason, amongst others, he was in favor of the provision. He was for simplifying the laws. He was in favor of making them so plain that the wayfaring man (not a fool) could understand them. He desired that all should avail themselves of the benefit of this law; that there should be no more of the risk and hazard attendant upon the collection of debts, so that the debtor might spurn

from his side the importunate creditor, and stand upon his own dignity. Then the State would no longer be cursed with that species of litigation which it had been proverbial for. Then men would adopt a different system in their commercial relations; and the intercourse between men and men assume a different character. People would not make such use of their time and ingenuity in cultivating a dishonest disposition as they would, if all occasion for it was put out of their reach. He desired to be understood as emphatically in favor of this proposition; and he wished it to be known that he supported the provision because it was so simple, and far-reaching in its consequences, and would have such an influence on society as to make all upon a level. It would enable the poor man, who had heretofore been a grovelling creature, not daring to lift his head, to raise his nose in scorn at his creditor, who could no longer prowl after him, seeking importunately for the satisfaction of his demands. That was one reason why he would vote for it.

Mr. J. D. PIERCE—I recollect hearing in the Legislature of this State in 1837, just such arguments as have been used here, against non-imprisonment. They said, "you cannot get a doctor to visit a poor sick man unless you put him in the prison; or the lawyer to come and do his business." Nor can you point out a single argument that was not against it—some in honesty, and some in irony. I have only to warn the friends of this measure against all such proffered friendship, for "Judas betrayed his Master with a kiss."

Mr. N. PIERCE—I am very much surprised at the remarks of the gentleman who sits very near me, [Mr. J. D. PIERCE.] He has opened the door to protect the debtor, and now because it is proposed to open it a little more, he thinks the measure is going to be betrayed.

It must be known by every gentleman that the law exempting property from execution, at first, covered but a very few articles. It has been increased from time to time, until it has reached its present amount. I recollect the time when the non-imprisonment question was brought up in the Legislature. It was said that it would be repealed—that it would not become the standard law of the State. There is not a man who tried to carry the repeal

of it—there never was a petition for such a move. Since that time there has been a homestead exemption, and the gentleman who has charged other members with presenting their measures, brought up that bill, and stuck to it from day to day until he got it passed.

He [Mr. J. D. PIERCE] proposes to exempt \$500 worth of all the property of every man in the State. That will cover the personal property of four-fifths of the men who keep house in this State. Then there will not be more than one-fifth that will not have \$500 worth of property.

Mr. J. D. PIERCE—Does that question come up in this article?

Mr. N. PIERCE—I do not care. I had an amendment drawn up, similar to the one offered. I am for leaving the article so that all the personal property in the State should be exempt. The laws have been such of late years, that I never have thought of suing a man. This is the proper place for repealing all the laws for the collection of debts. We have been told a great deal about our hard-hearted creditors, by the gentleman from Oakland, [Mr. VAN VALKENBURGH.] Now, sir, since the formation of this State, there has not been any thing but a continual legislation to exempt the debtor's property. First, the bed is exempted; then comes his personal property; and now, because it is proposed to extend this exemption to all the property in the State, the gentleman [Mr. J. D. PIERCE] gets up and says he is betrayed. I have no doubt that complete exemption will become the law of the land in some years, if we should not establish it in our constitution. I think that every man in this body, on reflection, will believe as I do, that if it is not done to-day, it will be at a future time. Now, I am in favor of taking the gentleman's bill, and saying in addition to it, that all property shall be exempt. I do not want to have the sheriff bothering about to see what is exempted, and what is not.

I have lived under this government. I do not know that I have ever suffered any thing by this exemption system. I have never lost any thing by suing a man and paying costs, for the reason that I never sued any one. I hope this amendment will be adopted, for I am sincere in what I say.

Mr. FRALICK—As I remarked this morning, I am opposed to this article. I will go with gentlemen to abolish all laws for the collection of debts, if we are to have an exemption at all. It will place every one on a level, and it will do away with all invidious distinctions. And, further, the gentlemen who constitute what is termed the bar, will wander about the streets briefless.

(A voice—Let them go to work.)

There will be no courts; there will be no ambiguity in finding out what a man possesses; and there will be no difficulty about people having property over and above \$500. The people will be left entirely to their honor and integrity, and they will not be put to those miserable shifts to defeat their creditors, to which they are now obliged to resort. Let us say that these collection laws shall be entirely abolished—we have, to a certain extent, in this article as it now stands.

The gentleman from Calhoun [Mr. J. D. PIERCE] is afraid that we are about to betray him. I do not see how the gentleman can possibly oppose such a measure as this—such a fair and liberal proposition. Under the system proposed, all the great expense of sustaining courts for the collection of debts is avoided; the bar is done away with, and hundreds of thousands of dollars will be saved to the State. Who can say that it is not right? Put the creditor and the debtor on their honor, and let the business between them be done as it is in the great commercial cities of the country. There the question asked is, does the man pay his note when due? If the answer be in the affirmative, it is all right; if in the negative, his credit is bad, and he sinks in commercial opinion.

In truth, I want to go back to the days when confidence was put in a man's honesty—to the platform from which we were forced long ago by this unfortunate credit system, into our present system of dishonesty in business transactions. I think the proposition now before the Convention will effect that object, as well as many other important reforms, and it shall receive my hearty support.

Mr. J. D. PIERCE—I am glad to see the gentleman desirous of establishing honesty. He is ready to go back to those days of honesty when men could be im-

prisoned for debt. That is going back, truly. He is for going back to the good old days of honesty, when a man could be shut up in gaol for debt. So I understand him.

Mr. FRALICK (in his seat) denied the construction which the gentleman put upon his observations.

Mr. J. D. PIERCE—This provision of the article leaves it open to the people to act upon it hereafter. The Legislature cannot reduce the exemption to a lower amount; but may increase it to whatever amount they may see fit. I hope the amendment will not prevail.

Mr. BUSH was in favor of the amendment. He understood it was to effect all personal property. The discussion on this day and yesterday satisfied him that it was the true policy. Yesterday gentlemen labored hard to convince the Convention that an independent Supreme Court was absolutely necessary. When the record, however, was consulted, it was found that on an average but twenty-nine cases were decided in that court in each year for the last four years. Taking the amount of the judges' salaries, which must be between \$5,000 and \$8,000, together with the lawyers' costs, it altogether, he believed, amounted to more than the money in litigation between the parties. If we adopted this proposition, we would be saved all that expense—the keeping up of that form of our government known as the judiciary, and in effect turn those gentlemen out to grass. [A VOICE: What gentlemen?] The professional gentlemen. They would have to turn and till the earth for their livelihood: it would be a glorious time. We might not go back so far as the days of the jubilee, adverted to by the gentleman from Calhoun, [Mr. J. D. PIERCE,] but we could adopt this principle in the fundamental law of the land, and much benefit would accrue from it. We could close the business relations now existing according to our present plan, for he was not in favor of a retrospective provision. This article, amended as proposed, could not do any one harm—the circumstances of the country would be adapted to the provisions of the constitution. It would save an immense amount of expenditure, as he had said, although the gentleman from Calhoun intimated that this

amendment was brought forward by the enemies of the article. He never had been an enemy of exemptions. He would go to the fullest extent for exemption, no matter how far, so that it was prospective, and would not interfere with contracts existing under the present law.

He hoped the gentleman would not get up here and say that an endeavor was made to betray him with a kiss. Let the gentleman give his reasons and arguments to show him [Mr. B.] that his position in regard to this amendment was wrong. He always listened to him [Mr. PIERCE] with pleasure, and would be happy to listen to a detail of all the evils which his prolific imagination could summon up as being attendant on this plan. But he did not think that he should say we were desirous of betraying the cause of exemptions, without giving sound reasons.

Mr. J. D. PIERCE—I could give a million of reasons. There is one reason that will satisfy the friends of the article that this amendment is inexpedient, and it is a good reason. You never can advance further than public sentiment will warrant. The public sentiment will sustain this provision as it stands in the article—it will sanction it. Public opinion warrants it, and will carry it through, and sustain it. This single article will gain more votes for the instrument you are framing, than any other you can put into the constitution. But it may be a matter of doubt, if you adopt the amendment proposed by the gentleman from Wayne, [Mr. BACKUS,] if we be not going farther than public opinion warrants. You are to adapt your laws and constitution to existing circumstances; and that reformer cannot be considered a wise man who goes beyond what public sentiment will sustain. If he go beyond it, he is powerless—he is lost. But so far as public sentiment is prepared to go, he may go, and no farther. I hope every friend of the measure will vote against this amendment.

Mr. N. PIERCE—I wish to compare the gentleman's sentiments with public opinion. Public sentiment has sustained, for the last four or five years, an exemption of property to the amount of \$750. The gentleman proposes \$500. Does he wish to be bid off 50 per cent. on public opinion? He has bound public opinion. I

don't believe that public opinion did not sustain the exemption law. The article as it now stands protects about four-fifths of the property in the State.

Mr. CORNELL—You may say eight-tenths.

Mr. N. PIERCE—Well, I will say four-fifths. It seems to me that we should let the other one-fifth enjoy what we give to the four-fifths. I believe the representatives of the people in this Convention are prepared to do that.

The gentleman from Wayne [Mr. BACKUS,] has made his mark, and it is a very good one. There is one thing he did not refer to. It is this: we will, by this amendment, do away with all those books that are now used and filled up with writing for carrying on business. Book-keepers and clerks will be saved a great deal of trouble. I am for extending the benefits of this exemption to all.

Mr. LEACH—As I intend to vote for the amendment, I will here inform the gentleman from Calhoun, [Mr. J. D. PIERCE,] that I am not one of those who desire to betray him with a kiss. If I believe any thing, I believe the principle embodied in the amendment to be a correct one. I have been for a long time in favor of repealing all laws for the collection of debts. I am decidedly in favor of it. I came here determined to vote for the most liberal exemption provision in regard to property.

The only reason that has been advanced against this amendment is, that public sentiment will not sustain it; that it is far in advance of public opinion. I have my doubts that it is. It may be so, however. But I can speak for my own neighborhood, and can say that a very large portion of the people are almost unanimously in favor of this proposition, and I believe it would be triumphantly sustained by the people of the State. I thought, at first, that the gentleman from Saginaw [Mr. SUTHERLAND] was in favor of the measure, but I find that he is one of those whom the gentleman from Calhoun [Mr. J. D. PIERCE] is afraid would "betray him with a kiss."

Mr. J. D. PIERCE hoped that the friends of this article would not connect it in any way with the question of repealing the laws relative to the collection of debts.

Mr. CRARY observed that he had heard of passing laws to kill lawyers. (Laughter.) Gentlemen seemed to suppose that all law business was concentrated in the mere collection of debts. Such was not the case. The whole property of the State had to pass through the hands of the legal profession—they had got a dabbling in it since 1836.

He remembered in 1842 or '43, when the exemption law was up, every one wanted to do ten times more than any of the friends of the measure desired. But they came too late—it was of no service—the measure was carried by only one vote. It was said "that public sentiment sanctioned it." That was true; but it was said at that time that public opinion would not sanction the exemption. He thought that the gentleman from Berrien [Mr. BRITAIN] had stated the true grounds upon which the exemption should be placed. In regard to the amount, he would say leave it in an ascending scale, for we were told that the public sentiment was going for the abolition of the collection of debts. If we really were going in that direction, then leave this provision in our constitution in such a form that the Legislature might act in accordance with the requirements of the times. If the sum be too high, lower it; if too low, increase it; but at all events let this Convention, in determining this matter, act upon the basis of sound judgment and discretion. But, however, he thought we had gone far enough, for he did not approve of going into extremes.

Mr. WALKER expressed himself as being in favor of the article reported by the committee, because it was right in principle, and no doubt would prove correct in practice. The time would come when the liberal views of the gentlemen from Wayne and Ingham [Messrs. BACKUS and BUSH] would be adopted. But in his opinion the amendment could not be adopted at the present time with safety. This provision was what he believed the mass of the community demanded. The legislature—when the people required it—no doubt would carry out the intentions of the gentleman from Wayne. He hoped the article would be adopted in its integrity.

Mr. BACKUS concurred in the observations made by the gentleman from Ing-

ham, [Mr. BUSH.] He hoped that all the friends of the proposition would come up and carry it through, in spite of the resistance of his venerable friend from Calhoun, [Mr. J. D. PIERCE.]

Mr. HANSCOM was glad to hear the gentleman from Wayne, [Mr. BACKUS,] talk upon the exemption side of the question, knowing as every other member of the Convention did, that the gentleman came here entirely opposed to the establishment of any system of exemption, whatever. He was among that class of men who were willing to strip an unfortunate debtor of his last dollar. Even a few minutes ago the gentleman voted against a proposition to make the provision less restrictive than it was. But this adoption of the system which he proposed, supposing him to be serious, would involve him in the most down-right absurdity; and in a measure we would have to suppose him an idiot. What did the friends of exemption look for? Under what act had they lived since 1848? They lived under a system more extended than the one proposed in this article. Was there any danger of injustice being produced by the establishment of this exemption principle? He did not consider that there was. He well remembered when the present exemption law was passed, that one universal cry was set up by the bar of Wayne county: "you are going to take away our business from us." That was the argument made use of. But the Legislature thought that the good of the community, and the cause of humanity should override all personal considerations in the matter. He would say, take any man in this State and ask him what had been the effects of this system. Three classes he contended had been benefited by it—the State, the creditor and the debtor. No man doubted that fact. He had, in truth, yet to learn that instance in which the operation of the system had been other than beneficial to the parties interested.

The gentleman from Wayne, [Mr. FRALICK,] told us to-day, in committee, that this provision would in its effects, prove an extension of the facilities for the commission of crime—for roguery in part.

The statement was not correct in point of fact, for if we razed all the exemption laws on the statute books the rogue was

still a rogue, and would laugh at all your attempts to collect your debts from him: there were but too many means for him to place his property beyond the reach of the creditor. If they desired to conceal \$20,000 or more they could do so independent of your exemption laws. But there was a higher consideration in this question, and it had been overlooked by all except the gentlemen from Berrien [Mr. BRITAIN.] The government was bound to protect itself—to leave in the hands of every man the means of prosecuting the labor by which he and his family were supported, thus forming a common stock of wealth.

He did not know that it would be proper to abolish all laws for the collection of debt at the present time. The period no doubt would arrive when such a measure would be passed; and men would carry on their business transactions upon a system of honor. But gentlemen intimated that this was going to diminish commercial credit. No such thing, because the honest well-meaning man would always obtain credit. This provision would force men to be honest by necessity. It furnished higher motives—it in fine induced men to be honest. He would call upon the friends of the measure to vote down this proposition, [Mr. BACKUS']; he knew that the object in view in presenting the amendment was to destroy the article. We wanted a system that would prove practicable—one that would be in consonance with public sentiment. In his judgment, the plan reported by the committee was eminently so. He thought that the man who endeavored to resist the will of the people would be overwhelmed by public sentiment. The voice of 1842 was again raised, and no man would have the hardihood to say, in defiance of public opinion, in the face of the people, that he would strip the unfortunate debtor of his last farthing, as he had heard some intimate to-day. He hoped the amendment would be voted down.

The question being upon striking out, as moved by the gentleman from Wayne, [Mr. BACKUS,] the same was then taken by yeas and nays as follows:

YEAS—Messrs. P. R. Adams, Axford, Backus, Burns, Bush, Carr, Church, Cornell, Crouse, Dimond, Fralick, Gibson,

Graham, Hart, Harvey, Leach, Lee, Marvin, Mason, Newberry, Orr, N. Pierce, E. S. Robinson, Sturgis, Sutherland, Town, Wait—27.

NAYS--Messrs. W. Adams, Alvord, Arzeno, Baggs, H. Bartow, Beardsley, Britain, Chandler, Choate, Comstock, Conner, Cook, Crary, Danforth, Desnoyers, Eaton, Gale, Gardiner, Green, Hanscom, Hascall, Hathaway, Kingsley, Lovell, McClelland, Moore, Mosher, Mowry, O'Brien, J. D. Pierce, Prevost, Robertson, Rix Robinson, Soule, Storey, Sullivan, Tiffany, Van Valkenburgh, Warden, Webster, White, Whittemore, Williams, Woodman, President—45.

So the Convention refused to strike out.

Mr. N. PIERCE moved to strike from the second line of section one, the word "five," and substitute "twelve."

Mr. ALVORD moved the previous question on the article, and the call being sustained, the main question was ordered to be now put on the amendment proposed by Mr. N. PIERCE.

A division having been called, the motion to strike out "five" was lost; and the main question being on ordering the article engrossed for a third reading,

Mr. ALVORD called the yeas and nays, and the same were ordered with the following result:

YEAS—Messrs. W. Adams, Alvord, Arzeno, Baggs, H. Bartow, Britain, Bush, Chandler, Choate, Church, Comstock, Conner, Cook, Cornell, Crary, Danforth, Eastman, Eaton, Gale, Gardiner, Gibson, Green, Hanscom, Harvey, Hascall, Hathaway, Kingsley, Leach, Lovell, Marvin, McClelland, Mosher, Mowry, O'Brien, Orr, J. D. Pierce, N. Pierce, Prevost, Robertson, Rix Robinson, Soule, Storey, Sullivan, Sutherland, Town, Van Valkenburgh, Warden, Webster, Whittemore, Williams, Woodman, President—52.

NAYS—Messrs. P. R. Adams, Axford, Backus, Beardsley, Ammon Brown, Carr, Crouse, Desnoyers, Dimond, Fralick, Hart, Lee, Mason, Moore, Newberry, E. S. Robinson, Sturgis, Tiffany, Wait, White—20.

So the article was ordered to a third reading.

On motion of Mr. BAGGS, the Convention adjourned.

WEDNESDAY, (44th day,) July 31.

The Convention met pursuant to adjournment and was called to order by the PRESIDENT.

Prayer by the Rev. Mr. SANFORD.

PETITIONS.

By Mr. STOREY: of 19 citizens of the county of Jackson, on the subject of licences. Laid upon the table.

Also, of 33 citizens of Leoni, Jackson county, praying the insertion of a clause in the constitution prohibiting the employment of convicts in the State Prison in those branches of mechanical labor which interfere with mechanical trades in this State. Referred to the committee on miscellaneous provisions.

MOTIONS.

Mr. McCLELLAND called up the article entitled "Legislative Department."

And the question being on ordering the same to a third reading,

Mr. CRARY moved the previous question, and the same being seconded, the question, shall the main question be now put? was decided in the affirmative.

The article was then ordered to a third reading by the following vote:

YEAS—Messrs. P. R. Adams, W. Adams, Anderson, Arzeno, Baggs, Barnard, H. Bartow, Britain, Ammon Brown, Burns, Chandler, Choate, Church, Comstock, Conner, Cook, Cornell, Crary, Crouse, Danforth, Desnoyers, Dimond, Eastman, Eaton, Fralick, Gale, Gardiner, Gibson, Graham, Green, Harvey, Hascall, Hathaway, Kingsley, Leach, Lee, Lovell, Marvin, Mason, McClelland, Mosher, Mowry, Newberry, O'Brien, Orr, J. D. Pierce, N. Pierce, Prevost, Robertson, E. S. Robinson, Rix Robinson, Skinner, Soule, Storey, Sturgis, Sullivan, Sutherland, Tiffany, Warden, Webster, Whittemore, Williams, Woodman, President—64.

NAYS—Messrs. Alvord, Axford, Backus, J. Bartow, Bush, Carr, Hanscom, Hart, Town, Van Valkenburgh, Wait, White,—12.

On motion of Mr. McCLELLAND, the article was then read a third time by its title, and the question being, shall the article now pass? it was decided in the affirmative.

The article was then, under the rule, referred to the committee on arrangement and phraseology.

On motion of Mr. J. BARTOW, the Convention resolved itself into committee of the whole on the article entitled "Finance and Taxation," Mr. MASON in the chair.

The committee resumed the consideration of Mr. BRITAIN's substitute, offered on the 27th inst., for section 1, to which

Mr. BRITAIN offered the following as an amendment:

Insert in line 5, after "taxes," "except such portion of specific taxes from the upper peninsula as the Legislature may return to the counties and townships thereof."

Mr. B. said—Since the report of the committee, the Convention have adopted an amendment in the educational bill, by which they propose to raise two mills for educational purposes. If it is considered necessary to increase the educational fund, perhaps there can be no better way than the one proposed. The amendment proposes to strike out that part of the original section which applies specific taxes in payment of current expenses. It was thought proper that the current expenses should be paid by direct taxation, as that will keep the attention of the people directed to their current expenses, and prevent them from becoming unnecessarily extravagant.

Mr. J. BARTOW—When the article in the original bill was before us for our consideration, a change was made in the phraseology with reference to these taxes in the upper country; it was then conceded that it was due to that country to leave the question to be adjudicated upon by itself. By the adoption of this substitute, it will put that part of the question where it originally stood; thus annulling the previous action of the committee. I object to this, for the reason that it takes this from the general fund, and gives it to the school and University funds, where it does not so properly belong. Our school fund is destined to become one of the richest funds in the State, and it will doubtless bring about a free school system. So with the University fund; it is destined to be amply sufficient for the purposes of the University. What need, then, of applying these specific taxes, when the only fund that really needs it is the general fund, to lighten the burden of taxation. This tax is levied from

a particular class, and it is not by law appropriated to any particular object; it should therefore be employed to lighten the general taxation—applied to the current expenses of the State.

I hope it will be stricken out; it has no business here. No fundamental law should say that we will take so much money from the general fund, and apply it to this purpose. I think that the section is radically wrong.

Mr. ROBERTSON—I wish to correct an erroneous impression; that is, that the interest of the primary school fund will keep up a free school system. There are 640 acres in each town; call that worth \$4 per acre, and you have the gross amount, \$2,560; the interest at seven per cent. is \$179 to each township; and if there are but \$179 to each township, schoolmasters must be cheap. If the gentleman from Genesee has based his statements upon the supposition that the primary school fund would support a free school system, he must see that his opinion is erroneous. Some school lands may sell for more than the sum I estimated, but \$200 is the utmost that can be calculated upon in the average of the townships.

Mr. FRALICK—I am opposed to the section. I think that we should not specify how the funds are to be employed. I want them put in the treasury where they have been heretofore placed. I do not want thus to go into detail; it is not only unnecessary, but it is wrong. I have endeavored to leave the matter open in the educational bill, that the Legislature may increase the tax if necessary. I do not see the propriety of restricting the tax for the purposes of education. The gentleman from Macomb says that the primary school fund will not enable us to have free schools; and a tax of two mills may not be sufficient.

By estimating property at its cash value, a tax of two mills may bring us in \$200,000; but, although that might bring it nearer, it might not be enough, if the people fully resolve upon a free school system. I want the specific taxes to go into the treasury. I want the interest of the primary school fund paid from year to year; the interest of the State debt paid yearly, which is provided for; a sinking fund for the payment of the principal of

the State debt; the educational fund left so that the fund can be raised if the Legislature see fit—not limited as it is now. I propose to offer a substitute which will cover the whole section, to stand as section one:

"The Legislature shall provide for an annual tax, sufficient, with other sources of income, to defray the estimated expenses of the State, including the interest on the debt of the State for each year; and whenever the expenses of any year, including such interest, shall exceed the income and such tax, the Legislature shall provide for levying a tax the ensuing year, sufficient with other sources of income to pay the deficiency, as well as the estimated expenses of such ensuing year, including such interest."

Gentlemen (said Mr. F.) will perceive that if the revenue falls short, it must be made up the next year, by an additional taxation. I hope that instead of the original section, the substitute will be carried.

Mr. WILLIAMS said he differed entirely from the gentleman from Wayne, [Mr. FRALICK.] He was opposed to excepting the specific taxes laid on the Companies of the upper peninsula. Indeed he was against giving the upper peninsula any separate organization. He, for one, would not consent to any *imperium in imperio*. When the Legislative department is under consideration, it should be embraced. When the Judicial department is matured, it should include the upper peninsula in its plan. It is a part and parcel of the State. For weal or wo, we are united under one State government, responsible to the same legislation and same courts. The whole government must be the same, and identified. All specific funds collected there should come into the common treasury, and their expenses should be honorably and equitably provided for. But as for giving them any distinct, though partial, political existence, he believed it quackery.

It is urged that the specific taxes collected in the upper peninsula should be applied there. He would not now consider whether this claim was founded in equity, and whether we ought not to concede—grant to them as much as \$2,500, which is about the sum their taxes amount to the present year; but he was governed by this consid-

eration. We work in the dark. The fund is now only about \$2,500. But who can look into the future and tell to what sum it will amount at some future day. Who can tell what untold wealth may lie buried in iron and copper in the lands of the upper peninsula, or how many companies, or how much of aggregated capital may be put in requisition to bring it to light. The specific tax may amount to \$100,000. He was unwilling to set a precedent which might absorb it all. The amount now conceded is small, but what is now a concession may be claimed as a right; and while no equitable claim existed for one quarter of the tax, the whole might be sacrificed.

If the specific taxes go entirely into the school fund, all the people of the upper peninsula have an interest, and their children, as well as ours, participate, and perhaps draw more than their proportionate share. The specific taxes on millions invested in our railroads and banks will be divided among them as well as among us. If it does appear that by reason of their singular and anomalous position, the upper counties are entitled to our sympathy and legislative aid, or relief from unfair imposition of taxes, can there be the least danger in trusting the Legislature? For himself, he should be ashamed of any want of justice or generosity. What has this Convention proved? Not only have members from every part of the State shown liberality, but extreme liberality. Whenever the upper peninsula has been named, advocates of her interests have leaped up from every part of the Hall. She has found defenders from every quarter of the State. If there is any one feeling pervading the State, it is that of pride in the possession of a territory abounding in the elements of boundless wealth, such as they believe the upper peninsula to be. We can adopt no possible policy here, or in the Legislature, which will not accord to that region more than numbers, wealth, or even glowing prospects, entitle it to.

With regard to this disposition of the specific taxes, to pay interest of the educational fund, so far from any injustice being done to bond-holders against the State, all he had to say was, that if any debt we owed should be regarded as more sacred than another, it was these educational funds; and why? They were a sacred trust

for a sacred purpose. We were trustees; so created by the general government. Our creditors were posterity. Our duties, which no exigency should ever force us to neglect, to the *c'est qui trust*, to the general government. Besides, we might with propriety be called on to repay the principal of the whole fund, as well as the interest. The State puts in her treasury the whole gross receipts from these funds, and even the creditor of the State derives a positive benefit from this commission, because of the increased ability of the State to tax herself. For the present, perhaps, it might make little difference. We shall be obliged to pay the interest in some way on the school and university funds. The specific taxes will not be adequate to pay interest on these funds and the public debt. But the day may come when there will be a surplus on hand of these specific taxes; and it is the part of a wise policy to determine in this constitution to what purpose they shall be devoted. When the question of education was under discussion, it was argued on all hands, that the two mill tax which we have provided for, and the income of the school fund, would not be sufficient to secure a free school system. Should the day come, then, when we should be possessed of surplus means from this source, to what purpose could they more properly be applied than to swell the school fund? They will be the common property of us all, derived mostly from assessments on foreign capital. A distribution so beneficent as to reach every family in the State, must prove the most satisfactory. On the whole, he must differ from the gentlemen from Genesee, [Mr. BARTOW,] and Wayne, [Mr. FRALICK,] and must regard his duties to the general government, in protecting a sacred trust fund, as equal or superior to all other duties.

Mr. BUSH—The arguments of the gentleman from St. Joseph have convinced me that it is not proper to fix the matter definitely. Who knows the wealth buried in the upper peninsula? Can the gentleman from St. Joseph form the slightest idea? Can we place in this constitution, properly, specifications about the effect of which we are entirely ignorant?

Some allusion has been made to the sacred character of the educational fund. I

admit that it is a trust fund, and one so sacred that we ought to pay it; and have we not done so? We have, and done so promptly; and there is no necessity for gentlemen showing so much feeling respecting a matter about which there can be no manner of question.

How can the counties in the upper peninsula carry on their organized government, except you give them what they need? It should be left to the Legislature; then it could gradually be changed, as the wealth of the territory is developed. I hope the first section will be stricken out, that the upper peninsula may be enabled to carry on their local governments; the balance might go to the educational fund.

Mr. HANSCOM—I know, as a fact, that the counties of Schoolcraft, Marquette, perhaps some others, contain very little agricultural land; that the property is chiefly owned by the mining companies, and every gentleman knows that by their charters the tax which they pay excludes them from paying for township and county purposes. Townships and counties which are important, are by these circumstances deprived of the means of sustaining themselves.

Let us, then, leave this to the action of the Legislature. We do not know what the magnitude of the fund may be, and there is no danger by leaving it open. It would be better than fixing definitely a sum about which we know very little, and that intended to last for the next fifteen years. The amount received may be enormous—it may reach half a million, taking the imagination of the gentleman as a basis. One thing is certain; we should not deprive any county of the means of carrying on its local government. We should leave to the Legislature the power to give them assistance as their necessities may require.

Mr. N. PIERCE—A few days since the free schools were so hot it almost burnt. Now it seems very different—free schools have few friends. I think, sir, it ought to be applied to this specific purpose. We then need not probably raise the two mills that we have placed in the educational bill. Although we do not know what the specific taxes may be, they will not meet the requirements of a free school.

The gentleman from Ingham [Mr. BUSH]

tells us that the State has always paid its school interest. It has, but it may not do so. It has not paid interest upon some other bonds; and I wish to provide for the payment of the interest forever.

I will go as far for one county as another—for Mackinac as the county of Monroe. They may have their share of these funds; they may take for their schools their proportion of the central rail road specific tax. I want my share of the specific tax of the mines.

Mr. CORNELL—I am as much in favor of free schools as the gentleman can be; but that is not the question.

Mr. N. PIERCE would refer the gentleman to the substitute for section 1.

Mr. CORNELL—It has been well said that there may be a great amount in the course of a few years arising from the specific taxes from the upper peninsula; if so, should we not leave some for the support of the local government? We might as well lay down the principle that the money received for the support of the State government should go into the school fund. Let us leave it to the Legislature; they may know something. The gentleman himself may be returned, and he can enlighten them. If his wisdom is not so much regarded here, it may be more prized there. If it is not needed for any other purpose, the Legislature can so apply it. I need not go farther, as the gentleman must be convinced of the impropriety of the course proposed by him.

Mr. BRITAIN proposed to strike out the words "in defraying the current expenses of the State."

Mr. B. said—I beg leave to say a word or two. The gentleman from St. Joseph remarked upon the effect that the substitute would have upon the upper peninsula. It at least extends justice to them. It will enable them to receive more money from us than they pay in the shape of specific taxes. It has been said they would have nothing left to pay town and county governments. We can put in a provision empowering the Legislature to return the specific taxes, if it is necessary.

One objection I should like to answer. It has been said that there was but a small quantity of arable land in that section of country. The delegate may be in error. I have had particular descriptions of the

country from a person employed for years in the selection of mineral lands for different companies. He assured me that when he went back from the coast a short distance, even among the mountain ridges, he invariably found valleys of fertile land, timbered with basswood, maple, &c. If that kind of timber grows there, it is evidence of the fertility of the soil.

He represented that this would be found the garden for the mining companies, and I believe that it will be found so. The people who have gone there have only thought of the mining interests. They probably thought that the timbered part of the country was a mere impediment in their way. The report of the late lamented Dr. Houghton states that the counties are agricultural in their character, where they recede from the coast. We should be careful how we make distinctions between the upper and the lower peninsula in any one department of the government; for no community can exist together in unity where the legislation is different; the result must be a separation; and gentlemen must be convinced of the truth of this proposition. I have thus given my reasons. This provides a general disposition of this fund for the future, without the expense of further legislation. It does not legislate; it does not mix this up with other funds; and that is the way that I think all funds coming in our hands should be vested—for the good of the whole people of the State.

Mr. GOODWIN—I have an amendment that covers the whole ground, but makes it broader. If it is just in reference to the upper peninsula, it will be just in other cases where there is a large amount of property exempt from taxation, upon account of this specific tax. It is an amendment which I wish to bear upon the Central and Southern rail roads.

[Mr. G. read an amendment, which was not obtained.]

Mr. CRARY—I am opposed to the amendment of the delegate from Wayne, [Mr. GOODWIN,] and to the substitute of the member from Berrien, [Mr. BRITAIN.] I am opposed to the substitute, because, by reason of the past legislation of the State, it may do injustice to the upper peninsula. By reference to our session laws, it appears that mining companies have been chartered in the upper peninsula with such

privileges that, while they are compelled to pay a specific State tax of one per cent on their personal property, the same property is not liable for county and township taxes. In the 21 charters granted in 1848 there is no liability to county and township taxes on their personal property. The real estate being alone liable to such tax. One of the companies chartered in 1849 is not liable to pay any county or township tax on its real or personal estate. These charters are a departure from the principle laid down by the Legislature of 1846, which exacted a certain per centage on the product of the mines. I think this was the correct principle; but having been departed from in a way that the counties and townships would be deprived of nearly all their means of maintaining their local administrations, we ought not to depart from a provision that will prevent future Legislatures from doing justice to the people whose interests are so much affected by the operations of these mining charters.

I will consider the amendment with the substitute, though not strictly in order. The amendment is intended to affect the specific tax on rail and plank roads. This tax should go for the benefit of all the people of the State. When we sold our rail roads, it was the understanding that the tax exacted of the companies on their capital invested, should go to the State, and constitute a fund for the payment of our indebtedness. These roads were State property at the time of sale, and subject to no local taxation. Though sold, they are in a measure public property still. There was no good reason why the city of Detroit should be allowed to collect a local revenue out of the capital of the Central rail road invested in cars and locomotives, or in steamboats. The car and locomotive station was at Detroit, but the cars and locomotives, though at Detroit long enough every day for taxation purposes, were, nevertheless, for the benefit of the whole road, and passed over the whole road. There was no reason why Detroit should tax them, which might not apply to every village and township through which the road passes.

I in part represent a county that has the central station on this road. At this station is always kept a large amount of the company property. The county would be

largely benefitted by the tax on this property. But it was satisfied with the benefits to be derived from the operations of the road, and was willing the tax on the property should go to the State. This is my opinion of the views of those whom I in part represent, and they are views founded in justice and in good faith to every other portion of the State.

In order that this question may not be made the subject of future legislative log rolling, I have been in favor of placing the avails of these specific taxes above legislative control. Now is the time to set them apart, and in a way that they may benefit every individual in the State. Let them be appropriated to pay the interest due to the educational funds, and to pay our other State indebtedness. When this is paid, let them constitute a part of the educational interest fund. Do this in the constitution, and local interests will not hereafter prevail over the public good.

Mr. WILLIAMS regarded the last argument of the gentleman from Calhoun [Mr. CRARY] as specious and deceptive. He is now afraid of a legislative scramble, a grab, and he conveys an imputation of dishonest motives upon the Legislature. The other day he thought the Legislature immaculate in its integrity and wisdom. And by the way, the gentleman from Monroe the other day declared the people had been taught to regard the Legislature as corrupt on one subject, and the next day on another subject he would trust them with unbounded discretion. It seems the Legislature is black or white, honest or dishonest, corrupt or incorrupt, according to the emergencies of the occasion, or the argument.

But to return to the question. The gentleman was willing to grant to the upper peninsula a concession which he would not to the central counties, because the case was different; because the central counties derived great benefits from the location of the road.

Mr. CRARY would correct the gentleman from St. Joseph. When the sale was made, the agreement was that the proceeds were to go for the benefit of the whole State—that it should not merely be a local benefit.

Mr. WILLIAMS—The gentleman did say, in answer to the President, that the

towns on the central rail road did derive from the investments among them advantages beyond any portion of the State. This was true.

It would not be just, however, to consent to the proposition of the gentleman from Wayne, [Mr. GOODWIN.] But still the case was no different, especially taken prospectively in regard to investment of capital in the upper peninsula. Does not that capital scatter peculiar local benefits. Does not the whole business of transportation live upon it? Does it not promote the fisheries and lumber trade, and cause every farmer and mechanic to thrive, and vivify every branch of industry.

Again, the gentleman argues that future Legislatures may impose one-half or one-quarter the present specific tax on mining companies. How does he know what the Legislature will do? How does he know that they will reduce the per centage of tax?

Mr. CRARY—They have done it.

Mr. WILLIAMS—Then it seems those who obtained the earlier charters are unfairly used. It is too much to assume that the policy will be changed. For himself, he might be enthusiastic, but he believed that the investment of capital in iron and copper mining, and all the subsidiary branches of business, would be enormous, and the specific taxes correspondingly large.

On the whole, he must regard both the arguments he had alluded to of the gentleman from Calhoun, as he said on rising, specious and deceptive.

Mr. McCLELLAND thought his remarks correct, that the Legislature might be trusted in some things but not in others. He would trust the gentleman from St. Joseph with any thing except politics, and in that matter he would be the last man that he would trust.

Mr. BAGG—We have got into one of our fits of benevolence. We have, once in a while, a fit of benevolence. We first made the supervisors equal to the Legislature, and in one instance made them superior to the Supreme Court; and upon all these things we have been legislating, and this morning we have got down to local legislation.

What do the people want of us? They look at our actions; they know that half

we do is mere legislation, instead of asserting general principles. They send us word by letters and otherwise that it is time to finish our work and go home. I shall vote against every amendment, because the delegate from Berrien goes sufficiently in the extreme, without any additional amendments to carry it further into detail. He goes sufficiently into detail without any body else ramifying it in its various branches. If we go on in this manner, we shall not get home until the middle of winter.

We should report general principles and leave the rest to the Legislature, or better yet, the Supreme Court or the supervisors. Let us leave it where it belongs; not descend to this local legislation; local taxation; and don't let us descend to these little whirlpools of taxation.

Mr. BRITAIN withdrew his amendment.

Mr. GOODWIN—As the gentleman from Berrien has withdrawn his proposition, I do not think it necessary to discuss its merits.

The gentleman from Calhoun has not, by his reasoning, convinced me of the correctness of his proposition with regard to these railroads. I do not consider that the payment of a specific tax should exempt the corporations from paying the town or county tax. I do not see, sir, if the upper counties are to have returned to them for the support of their local government the money that we receive from them in the shape of a specific tax, why other portions of the State should be deprived of the power of taxing corporations for the support of their local government, in consideration of a specific tax; and not have a portion of that tax refunded to them for such purposes. Shall a corporation, adding property to property, within cities, towns and counties, increasing the amount yearly, be allowed to escape all local taxation because they pay a specific tax to the State; and cities, towns and counties, be entitled to no portion of that specific tax. I do not know what opinion gentlemen may entertain of the views which may have influenced the Legislature. One man may express opinions very widely differing from the sense of the majority. We can only know the intent and object of the Legislature through their acts. We cannot take, as a test, the opinions of an individual, or

what he may propose. I think, whatever may be our opinion of the future action of the Legislature, we are called upon in this Convention to do what is right.

I will not extend my remarks at present. The other day I presented a resolution passed by the common council of the city of Detroit, requesting the action of the Convention in this matter, which is in charge of the committee of which the gentleman from Berrien is chairman. I shall forbear offering an amendment until the report of shall have come in. With reference to the arguments of my friend from Calhoun, I would now barely say that there is property in Detroit, Marshall and New Buffalo, in the shape of real estate, actually held by the Central rail road company, worth probably half a million; that in the city of Detroit the rail road runs for a considerable distance on the edge of the river, in the most commercial part of the city; that the company has there acquired the property on the border of the river, and made large improvements, increasing the value of its real estate, while it has diminished the relative value of other parts of the city, by drawing the business to its own premises and vicinity. I would ask, as a matter of right and justice, should this immense property be exempt from all local taxation because it pays a specific tax to the State, and no part of that tax is refunded to the cities, towns and counties for local purposes? I shall, however, forbear to urge arguments in its favor, at present, as I shall probably take the opportunity, when the report is presented, to give my views more at large.

Mr. BRITAIN—The resolution of the common council of the city of Detroit was considered by the committee, and the report was considered a sufficient answer. It was, upon further consultation, thought proper to report specially upon the subject of the resolution, and in a few days the committee will have a meeting. I beg leave to answer one remark. I would ask the gentleman from Wayne if the value of real estate is less now than it was at the time the Central rail road company bought the property?

Mr. GOODWIN said that property had become more valuable in general since that time, both in the city and through the country.

The question being upon the adoption of the substitute,

Mr. COOK asked for a division of the question, and section 1 was stricken out.

Mr. FRALICK offered the following as a substitute for the substitute of Mr. BRITAIN:

"The Legislature shall provide for an annual tax, sufficient, with other sources of income, to defray the estimated expenses of the State, including the interest on the debt of the State for each year; and whenever the expenses of any year, including such interest, shall exceed the income and such tax, the Legislature shall provide for levying a tax the ensuing year, sufficient, with other sources of income, to pay the deficiency, as well as the estimated expenses of such ensuing year, including such interest."

The substitute was not adopted.

Mr. CHURCH moved to add to Mr. BRITAIN's substitute the following:

"The foregoing provision shall not apply to specific taxes in the upper peninsula."

But the committee refused to so amend.

Mr. HANSCOM moved to insert after "taxes," in the first line, "not otherwise appropriated by this constitution;" which motion did not prevail.

Mr. BRITAIN'S substitute was then adopted.

Mr. BUSH moved to fill the blank with "80."

Mr. BRITAIN—It is usual to fill blanks at the third reading; there will then be a full opportunity. The Convention have proposed to raise a two mill tax for the support of education. The object of the amendment is to permit the specific tax to go into the educational fund, thereby saving the raising of the two mill tax, leaving it to be applied to the payment of the State debt. I move that the blank be filled with "55."

Mr. BUSH—I am in favor of making it apply only to the year 1880. I do not wish these specific taxes to be placed entirely out of the power of the Legislature, however much the best interests of the State may demand it.

The motion to fill the blank with "80" was lost.

Mr. CRARY understood that the object of the chairman was to give these specific taxes to the school fund, instead of the two

mill tax. If so, he thought that 1852 was long enough to wait.

The question then recurring upon filling the blank with "55," it was lost.

Mr. WILLIAMS—This does not take the place of the two mill tax; it merely pays the interest in a different way. I move to fill it with "65," for, in all human probability, the debt will not be paid before that time.

Mr. CRARY said he supposed the interest annually due the school fund was about \$17,000. The specific taxes in '52 would probably be \$90,000, a sum greater than the two mill tax, while property is valued at its present rates, and with a prospect of its going up to \$100,000. If property was assessed at its cash value, the two mill tax might reach two or three hundred thousand dollars.

Mr. WILLIAMS—That is not correct. We have salt lands granted for the purpose of supporting an agricultural school. Then take \$10,000, the interest due upon the University fund, and if we pay the interest due upon all the primary school fund, I doubt whether the specific taxes will be more than sufficient to meet it.

Mr. N. PIERCE would inquire the reason why it should be put off? Whether the State owed to that fund \$5,000 or \$27,000, it had to be paid. He could see no reason for delaying it, and thought that 1852 was a suitable time.

Mr. BRITAIN said the amount of specific tax in 1849 was \$22,550; the one mill tax was about \$29,000; but the amount received was about \$18,000, owing to a deficiency of collection. The specific tax for the year 1852 will be about \$70,000; about equal, or a little more, than the two mill tax, which the Convention proposed a few days ago. If, instead of "52," "53" were inserted, he [Mr. B.] thought there was not much danger in relying upon the estimate of the gentleman from Calhoun. As the educational bill is still in the hands of the Convention, we can give to it all the consideration which it needs, after we have fixed the principles in this bill; and the Convention can still cut off all the taxes that they choose.

The difference between the tax authorized to be levied for the educational fund and the specific tax was so small that there was no difficulty in arranging it now, and

afterwards arranging what amount was further necessary when the educational bill was brought before us.

Mr. GALE—I am opposed to filling the blank at all at present. The article on schools has progressed to a certain extent; and it will in my opinion be the best to leave this open until that is completed. It will come up first in order, and will soon be disposed of; then this blank can be filled up with more propriety than at the present time.

The blank was filled with "52."

The committee then proceeded to the consideration of the new sections offered by Mr. BRITAIN.

The question being upon the first, to stand as section 15, the same was not adopted.

Mr. BRITAIN withdrew his proposed section 16.

Mr. BRITAIN offered the following as a substitute for the proposed section 17:

"The Legislature shall provide by law for making all assessment rolls which have been returned by collectors, conclusive evidence of the legality of all assessments correctly made, contained therein, and for the correction of repeated and erroneous assessments."

The substitute was not adopted.

Mr. BRITAIN then withdrew the remainder of his proposition made on the 27th.

On motion of Mr. WEBSTER, the committee rose, reported the article with amendments, asked the concurrence of the Convention, and to be discharged from the further consideration thereof.

The committee, through their chairman, reported the same back with amendments in which the concurrence of the Convention was asked.

On motion of Mr. HANSCOM, the article "Finance and Taxation," as amended in committee, was laid upon the table and ordered printed.

The article entitled "Elections" being before the Convention,

Mr. WHITEMORE hoped that it would be passed over, as an amendment, was thought by the committee, necessary.

Upon the article entitled "County Officers and County Government,"

Mr. R. ROBINSON moved the previous question, which was demanded, and the

main question was ordered to be now put.

The article was then read a third time, and the question being, "shall the article pass?"

Mr. MASON asked the yeas and nays, and the same were taken, as follows:

YEAS—Messrs. W. Adams, Alvoid, Anderson, Arzeno, Axford, Backus, H. Bartow, Britain, Ammon Brown, Burns, Carr, Chandler, Choate, Church, Comstock, Conner, Cook, Cornell, Crouse, Danforth, Desnoyers, Eastman, Fralick, Gale, Gibson, Graham, Harvey, Hascall, Hathaway, Kingsley, Marvin, McClelland, Moore Mosher, Mowry, Newberry, O'Brien, Orr, J. D. Pierce, N. Pierce, Robertson, E. S. Robinson, Rix Robinson, Skinner, Soule, Storey, Sullivan, Tiffany, Town, Van Valkenburgh, Wait, Webster, Williams, Woodman—54.

NAYS—Messrs. Bagg, Barnard, J. Bartow, Bush, Crary, Dimond, Gardiner, Green, Hanscom, Hart, Mason, Warden, White, Whittemore, President—15.

So the article was passed, and referred to the committee on arrangement and phraseology.

The article entitled "Of cities and Villages" was read a third time, passed, and under the rule referred to the committee on arrangement and phraseology.

Mr. MASON moved to go into committee of the whole on the Judiciary article; but the Convention refused so to do.

The article entitled "Exemptions and the Rights of Married Women" was read a third time, when,

On motion of Mr. MASON, it was laid upon the table.

The article relative to "Capital Punishment" coming up as reported back yesterday by the committee of the whole,

Mr. BAGG moved to strike out the same; when,

On motion of Mr. McCLELLAND, it was laid upon the table.

Mr. MASON moved to go into committee of the whole on the article entitled "Judicial Department," which was not agreed to.

Mr. COOK called up the article entitled "Corporations," and the question being upon concurring in the amendments made to the same in committee of the whole,

Mr. HANSCOM moved to strike out the substitute for section two, reported by

the committee, and insert in lieu of it, as follows:

"No banking law, or law for banking purposes, nor any act creating or renewing any association or corporation for banking purposes, shall ever be enacted by the Legislature."

Mr. BAGG—I hope the amendment of the gentleman from Oakland will prevail. I was about to make a motion that no bank charter authorized by the Legislature shall have any effect in this State. I am in favor of the motion, for the reason that I am opposed to all banks whatever, except banks of earth. This is a reality; while any bank of paper is only a chimera of the imagination—a deception—not a reality. There never was a bank, and there never will be one, without it is based upon a fraud. Whether it is based upon general laws or special laws, it is an evil; it creates unequal privileges, it enriches the few to the detriment of the many; and the constitution of our government declaring that all shall have equal rights, every bank that is created strikes consequently at the fundamental principles upon which our government is based.

What do they want? What do they ask when they come to the Legislature for a bank charter? They want to go in debt two and a half dollars for every dollar they have in the bank. If you grant them the privilege, contrary to justice and right, they get plates, make a pretty picture, get Gen. Jackson, a sheaf of wheat, or a flock of sheep on the hills. Then they issue their promises to pay, while many have not even the semblance of a real existence. They are like the *will-o'-the-wisp*; you can see their bills, but you can't find where the bank is located. How many times in the history of this State, have the commissioners tried to find where the banks were located, and, when found, what a bubble was it shown to be.

In order to have equal rights you should let the shoemaker promise to pay two and a half shoes for every shoe he has in his shop; so with every other mechanic. Gentlemen will see the absurdity of the whole thing, if it is brought into general practice. But some banks do what they call a legitimate business; they rear palaces, and have what is called a good foundation. Well, sir, let a farmer go to a bank who wants

money for buying seed wheat, or any other contingency which may happen, however good his circumstances may be, can he get it? No, sir. Let him ask for \$50 for sixty days. What will they say? Hard times—don't do any business—you can't have a dollar. But I believe, over the way, Mr. so and so, has money. He may let you have it. And then if the farmer goes, he will be asked twenty or thirty per cent.; and nine times out of ten the money is obtained from the bank.

While the farmer cannot get fifty dollars, one of these financial men, a merchant, or a swivel between the farmer and the bank, will get from two thousand to three thousand; and this is the sole privilege we have for granting bank charters. Banks, they say, were not made for farmers, they were made for financial men.

I did not suppose that this question would come up this morning; but it is sufficient for me to know that our government is based upon equal rights—banks upon fraud and corruption; and no man dare deny that they are unequal in their practices; a bundle of absurdities, of hypocrisy and incongruity, from their commencement to their death; and in justice to equal rights, let us have no banks.

I now appeal to the democratic party in this Convention—a party that for years past has said “no banks.” For the last two or three years, I admit, a change has come over some of us with regard to this matter; and I say let us close up this evil, and have no banks; because I firmly believe that banks are based upon principles as different to those of our government as light is to darkness, or Heaven is to hell. I shall vote for no banks whatever.

Mr. BRITAIN moved to amend the foregoing by adding thereto, “nor shall any bank charter now in force extend beyond the first day of January, 1852.”

Mr. B. said—The city of Detroit has a monopoly of the banking interest of the whole State, and the fair inference is that they want it for all time to come; and this will account for the opposition of the gentleman from Wayne to all banks—he is opposed to all banks except Detroit banks.

Mr. HANSCOM—I do not want the amendment attached to mine. I wish the gentleman to withdraw his amendment.

Mr. BAGG hoped the gentleman would

withdraw it. He wanted to see how many democrats there were that would vote no banks. He hoped the gentleman would not hedge him in with his amendment; he hoped it would be voted down.

Mr. COOK hoped that the gentleman from Berrien would not withdraw it. If members are going against all banks, they must strike at home as well as abroad. If we are determined to say that we will have no banks; will not even submit the question to the people; strike them out of existence, so be it; but I do not want the gentleman's own constituents to have banks, and the rest of the community be deprived of the benefits or evils of the system. Give all the same level, if the people cannot be allowed to say whether they will or will not have banks upon safe ground. I hope that the gentleman will not withdraw his amendment.

Mr. BAGG wished to explain. He supposed the gentleman [Mr. Cook] wanted to palm off some new bank upon the community, and he wished to represent that there was a monopoly of banks at Detroit. So far (said Mr. B.) as we have been concerned, and especially with reference to the banks lately created, everybody knows that Wayne has instructed her delegates to vote “no bank” for the last ten years, the very course I have taken here; and if men from Wayne county have voted differently in the Legislature, they have voted against their instructions.

The gentleman should not reflect upon me or my constituents. We set here clothed with the majesty of the people, and we should do what is right. If we cannot obtain what we wish, we still have done our duty—what our constituents wish us to do.

Mr. EATON was opposed to banks. He would go for the amendment of the gentleman from Berrien; but as banks now in operation have charters for a certain length of time, it would amount to nothing.

Mr. COMSTOCK—I am glad the question has come up. If a majority are opposed to banking institutions, let the question be settled. If the question is so decided, let us nullify the charters now in existence, and not let one portion of the State have a monopoly of the circulating medium. We should further amend and say that we will not take the paper money

of other States, but that we shall be confined to a pure metallic currency.

If it is so important to exclude banks from our State, we ought to exclude other paper money, for the reason that while we might have banks upon a safe footing, upon whose faith we might place confidence, yet we might have a worthless currency of another State, about which we knew nothing, and the farmer and the merchant might be cheated of their just dues.

Mr. BAGG moved to adjourn; but the Convention refused to adjourn.

Mr. ROBERTSON asked the yeas and nays on the amendment proposed by Mr. BRITAIN, and the same being ordered, the amendment prevailed, as follows:

YEAS—Messrs. W. Adams, Alvord, Anderson, Axford, Barnard, Britain, Ammon Brown, Burns, Bush, Carr, Chandler, Church, Conner, Cook, Cornell, Crary, Crouse, Danforth, Dimond, Eastman, Eaton, Gale, Gardiner, Graham, Green, Hanscom, Hart, Harvey, Hascall, Kingsley, Lovell, Marvin, Mosher, Mowry, Newberry, O'Brien, J. D. Pierce, N. Pierce, Rix Robinson, Sturgis, Sullivan, Van Valkenburgh, Webster, White, Williams—45.

NAYS—Messrs. P. R. Adams, Arzeno, Backus, Bagg, H. Bartow, J. Bartow, Choate, Desnoyers, Fralick, Gibson, Hathaway, Mason, McClelland, Moore, Orr, Robertson, E. S. Robinson, Skinner, Soule, Storey, Sutherland, Tiffany, Town, Wait, Warden, Whittemore, Woodman, President—28.

On motion of Mr. KINGSLEY, the proposition of Mr. HANSCom was further amended by adding: "and no bank paper of any other State shall be allowed to circulate in this State as currency."

Mr. SKINNER moved to adjourn; which was not agreed to.

Mr. McCLELLAND moved to amend by adding after Legislature," in the first clause of the substitute, as follows: "unless it shall be submitted to the people, and then been first approved by a majority of the electors of the State voting thereon, in such manner as may be prescribed by the Legislature."

Mr. VAN VALKENBURGH moved a call of the Convention; but the call was not sustained.

The amendment proposed by Mr. McCLELLAND was agreed to, as follows:

YEAS—Messrs. P. R. Adams, W. Adams, Alvord, Arzeno, Bagg, H. Bartow, J. Bartow, Britain, Ammon Brown, Burns, Chandler, Choate, Church, Conner, Cook, Cornell, Crary, Crouse, Danforth, Desnoyers, Eastman, Eaton, Fralick, Gale, Gibson, Graham, Harvey, Hathaway, Kingsley, Marvin, McClelland, Moore, Mosher, Mowry, Newberry, O'Brien, Orr, Robertson, E. S. Robinson, Rix Robinson, Skinner, Storey, Sullivan, Sutherland, Town, White, Williams, Woodman, President—49.

NAYS—Messrs. Anderson, Axford, Backus, Barnard, Bush, Carr, Comstock, Dimond, Gardiner, Green, Hanscom, Hart, Hascall, Lovell, Mason, N. Pierce, Soule, Sturgis, Tiffany, VanValkenburgh, Wait, Warden, Webster, Whittemore—24.

Mr. CRARY moved further to amend Mr. HANSCom's proposition, by inserting after the word "renewing," as follows: "Or extended, with the privilege of making, issuing or putting in circulation any bill, check, ticket, certificate, promissory note, or other paper, or the paper of any bank to circulate as money."

And the amendment was agreed to.

On motion, the Convention adjourned.

Afternoon Session.

The PRESIDENT called the Convention to order.

A quorum of members being in attendance,

Mr. MASON offered the following:

Resolved, That the thanks of this Convention be tendered to the Hon. H. T. BACKUS, for his able and eloquent eulogy upon the life and character of ZACHARY TAYLOR, late President of the United States; and that a committee of three be appointed to solicit a copy for publication.

Mr. HANSCom—This did not come before the Convention. I concur in the merit, eloquence, and all that sort of thing; but the Convention, as a Convention, did not attend.

Mr. MASON understood that a committee was appointed to wait upon Mr. BACKUS, and that it was understood that he was to give an eulogy before the Convention.

Resolution adopted.

The Convention resumed the considera-

tion of the article entitled "Corporations."

On motion of Mr. McCLELLAND, the substitute for section 2 was amended by inserting after "purposes," in the 1st line, the words "or amendment thereof."

The question recurring on the adoption of Mr. HANSCOM's proposition as amended,

Mr. CRARY said the question before us is whether this Convention shall say positively there shall be no banks, or whether it shall be left to the people, giving them an opportunity to vote "bank" or "no bank," or submit to them a law of the Legislature containing all the provisions of a banking law. These are the three propositions.

I am individually opposed to banking. I do not think that the business can be profitably carried on in this State. I mean a legitimate business; although some kind of transactions that we call banking can undoubtedly be made profitable. But as I have to vote for one of the three propositions, I shall take the latter course, and sustain the action of the committee who have had this matter under consideration.

Mr. HANSCOM—The Convention, if they choose, can vote down the amendments and vote upon my proposition, as it does not necessarily follow that the amendments properly belong to it.

Mr. MOORE—I think that the section, as introduced by the committee, is carefully constructed with regard to the interest of the public; and if made into a law will, I think, meet with general approbation. I am therefore in favor of the substitute of the committee. A great many are opposed to all banks, and we should all be so if they could not be placed upon a solid foundation. It is universally conceded that we cannot have a metallic currency sufficient for our wants. That is a fact about which there can be no question; and I contend that that being the case, we had better have a circulation of our own bills, guarded in the best manner that we can devise, than take the paper currency of other States, about which we know nothing. I think if we sustain the action of the committee it will be satisfactory.

Enquiry was made if it could be divided.

The CHAIR said that it must be taken as a whole.

Mr. BAGG enquired if a substitute would be in order.

The CHAIR said it would not be in order.

The yeas and nays being ordered, the substitute was rejected:

YEAS—Messrs. Alvord, Anderson, Bagg, Beardsley, Britain, Comstock, Eaton, Hanscom, Hathaway, N. Pierce, Wait, Webster, White—13.

NAYS—Messrs. P. R. Adams, W. Adams, Arzeno, Axford, Backus, Barnard, H. Bartow, J. Bartow, Burns, Carr, Chandler, Choate, Church, Conner, Cook, Cornell, Crary, Crouse, Danforth, Desnoyers, Dimond, Eastman, Fralick, Gale, Gardiner, Gibson, Graham, Green, Hart, Harvey, Leach, Lee, Lovell, Mason, McClelland, Moore, Mosher, Mowry, Newberry, O'Brien, Orr, J. D. Pierce, Redfield, Robertson, E. S. Robinson, Rix Robinson, Skinner, Soule, Storey, Sturgis, Sullivan, Sutherland, Tiffany, Town, Van Valkenburgh, Warden, Whittemore, Williams, Woodman, President—60.

The question recurring upon the substitute of the committee,

Mr. BRITAIN moved to amend the reported substitute by adding thereto the following:

"Nor shall any bank have any legal existence in this State after the 1st day of January, 1855, except under a general banking law."

The yeas and nays were ordered.

Mr. BAGG would inquire, if we passed such a law, if it would not be wholly null and void.

Mr. BRITAIN—I am informed that all the banks are under the power of the Legislature, except one. If the people of Michigan place this feature in the constitution, it will be respected. I do not think that one wicked or weak Legislature can compromise the rights of the people forever. No gentleman should hesitate to vote for it on that account. It is as competent for us to settle it as if we had not a bank in existence. The object is to secure them all under one system. It is to prevent those at present engaged in banking going against a general banking law, in defence of their special interests. If the members wish no banks, let them all come under the same rule.

Mr. J. BARTOW—Four out of five are under the control of the Legislature. One is not. Their rights being vested, we have

no more business to interfere than the Legislature have. Therefore, we have no right to place this in the constitution.

Mr. ROBERTSON—The gentleman from Wayne asked the gentleman from Berrien as to the effect the present section would have upon the banks now in existence, if any general banking law should receive the approval of the people. The answer was, that it would make them interested in a general banking law. Now, I do not want four or five powerful corporations helping us to make a general banking law. I would rather be without their assistance. It is a question whether this Convention can interfere with vested rights.

The gentleman from Berrien, and the gentleman from Oakland both take the ground that we have a right to control a contract that we have entered into—that a sovereign power is not to be bound by a contract. I have heard a great deal said about the sacred nature of vested rights. When the State enters into a contract, by that contract it is bound.

Mr. BRITAIN—The gentleman from Macomb talks about the sanctity of vested rights in the country from which he came. Are there any vested rights in that country with which the Parliament of Great Britain cannot interfere?

Mr. ROBERTSON—The Parliament of Great Britain is imperial; it has the sovereign power to control all action. It can establish and destroy, and no court can say that its acts are unconstitutional. But in this country it is different. There are three distinct departments; the Executive, with a certain control over the Legislature; and there is the Supreme Court which has power over the Executive and the Legislature combined. There the Parliament is above all law; it is a different system. Here we have a power set above us for high purposes, and our decisions may be reversed in the high tribunal of the U. S. That court can declare whether we can control them or not. It is their province; so that any analogy between us and Great Britain does not exist in this respect. Shall we put a bribe upon the counters of these five existing banks, that they may go in favor of a general banking law, however wrong? It is said to be their money which is used in certain elections, and upon cer-

tain occasions. Shall we assert in this constitution that we will interfere with vested rights?

I say that it is an injury if we assert a principle that we cannot carry out; and that we have fallen from the high state to which the voice of the people of Michigan elected us, if we assert a principle that the highest tribunal will pronounce fallacious; and I assert that it is appealing to a wrong principle in the human breast, if this Convention interferes with those vested rights, or maintains that it can do so constitutionally; and as I see the Rev. Mr. PIERCE is ready to explain the whole matter, I will yield the floor.

Mr. J. D. PIERCE—I ask the gentleman from Berrien to withdraw the amendment to the section. I think that the Convention can do it, but I would prefer that the question would come up in the last section. The whole question can come up at that time.

Mr. BRITAIN thought that this was the proper place for an amendment to the section. There will be but little chance of carrying it if I withdraw it now.

Mr. B. then withdrew the proposition.

Mr. CRARY moved the previous question on the section; but the same was not ordered.

On motion of Mr. BRITAIN, the original section of the article was amended by inserting in line 1, after "purposes," the words "or amendment thereof."

Mr. BAGG proposed the following for the substitute proposed by the committee to section 2:

"The Legislature shall have no power to pass any law creating banking privileges."

Mr. BAGG—I do not mean to be tedious, but I am willing to take the responsibility, without leaving it to the people. I know well that a large majority are with me upon this subject, and I do not want the influence of banks upon the people on any subject. I know the people are right upon this subject; I know the Legislature is right when it comes fresh from the people; and I will say, when a bank is made, you can at all such times infer fraud. The last batch of banks were made through fraud. The people instructed their representatives that they should not go for any bank. They made the instructions as strong

as they could be written. Well, sir, we can uncover fraud, even in a court of justice. I am certain we can uncover it here. I propose to see how many there are willing to vote directly upon this proposition. It has been contended that we should have banks because other States have banks. That is a great argument. I consider that banks stand in the same relation to the financial world that ardent spirits do to the human system. Give them one drink, they feel well; another, he is rich; another, he has property to sell; another, the whole world is at his control. So with banks. Who does not remember the times of '36? Men who thought themselves rich, found themselves stripped of their all. They found out that banks would play long and short; and their operations caused more misery in this State than any thing else that has happened.

The people will sustain no more banks, and we shall want a safety clause like this in the constitution to make the people swallow it, we have made so many changes. I should like to see any one attempt to prove that a bank is reconcilable with a democratic government. Government is based upon equal rights. Banks are a monopoly—corruption and fraud. Not a single argument to sustain it. One diametrically opposed to the other; yet we are here voting amendments upon amendments, not daring to come to a direct vote upon this question. We ought to come to a direct vote. We ought to show our hands, so that the next Legislature may know clearly what we mean.

Mr. COOK—Has the gentleman uniformly sustained these views in this Convention?

Mr. BAGG—I may have voted for some picayune amendment, so as to make the whole thing odious. I want the vote to be bank or no bank; then you will see my vote. I suppose the gentleman wishes to put a little bank in some section. He said I wished to monopolize banks in Detroit. He knows that the democracy of Wayne have ever been opposed to banks, and I have ever stood in the democratic ranks. And shall we be taunted with the acts of a corrupt Legislature? I hope not. I say that it is wrong. I say that the last bank charter was carried against the wishes of three-fourths of the inhabitants of the Pe-

ninsula State. How it was done, I do not know. But we are here to make or unmake bank charters; and if we can unmake them let us do so, and sweep the miserable things out of existence.

But, forsooth, we must have banks because other States have banks. If other States are steeped in crime—if other States do wrong, must we do so? Is that the argument? Let Michigan do what is right. If there is a blot upon us let us wipe it out—let us say no banks. Other States are looking at us to see what the democracy are doing—to see if we will say no banks, as we have said no capital punishment.

The banks can convulse the whole length and breadth of this land; they can bow down the head of the widow and make the orphan children cry for bread; they have done it, and they will again for their own gain. I hope this question will be fully decided, and I call for the previous question.

Mr. WEBSTER moved the previous question.

Mr. BRITAIN had a small amendment he wished to make.

Mr. BAGG did not want any amendment at all. He wanted to see the yeas and nays upon that proposition alone.

The CHAIR said that he saw Mr. WEBSTER and Mr. BRITAIN rise at the same moment.

Mr. BAGG—I called for the previous question just before sitting down. I think I am right.

Mr. BUSH said there was not the slightest ground for an appeal. When the chair saw two or more gentleman rise, the rule was, that he might name which he chose.

Mr. J. D. PIERCE—I hope the gentleman will withdraw the appeal.

Mr. BAGG—I withdraw it.

Mr. BRITAIN then offered his amendment:

“Nor shall any bank charter now in existence extend beyond the first day of January, 1853.”

Mr. BAGG withdrew his proposition, and offered the following as a substitute for the same:

“No banking law, or law for banking purposes, nor any act creating, continuing, renewing or extending any association or corporation for banking purposes, shall ever be enacted by the legislature.”

The CHAIR said that the proposition

was substantially the same as the one submitted by the gentleman from Oakland, which had been acted upon by the Convention, and therefore was out of order.

Mr. HANSCOM appealed from the decision of the CHAIR.

Upon the appeal, Mr. McCLELLAND moved the previous question, and the same being ordered, the main question was ordered to be now put, and the question being, "Shall the decision of the chair stand as the decision of the Convention?" it was decided in the affirmative.

Mr. McCLELLAND moved the previous question on the section, and the same was sustained, and the main question ordered to be now put; and the substitute reported by the committee of the whole for section two of the article, was concurred in by the following vote:

YEAS—Messrs. P. R. Adams, W. Adams, Alvord, Anderson, Arzeno, Bagg, H. Bartow, Beardsley, Britain, Ammon Brown, Burns, Chandler, Choate, Church, Conner, Cornell, Crouse, Danforth, Desnoyers, Eaton, Fralick, Gale, Gibson, Graham, Green, Hart, Hathaway, Kingsley, Leach, Marvin, Mason, McClelland, Moore, Mosher, Mowry, Newberry, Orr, J. D. Pierce, Robertson, E. S. Robinson, Rix Robinson, Skinner, Soule, Sturgis, Sullivan, Town, Van Valkenburgh, Whittemore, Woodman, President—50.

NAYS—Messrs. Backus, Barnard, J. Bartow, Bush, Carr, Comstock, Cook, Crary, Dimond, Eastman, Gardiner, Hanscom, Harvey, Hascall, Lee, Lovell, N. Pierce, Prevost, Redfield, Storey, Sutherland, Tiffany, Warden, Webster, White, Williams—26.

The amendments made in committee to section three were concurred in.

The first amendment to section four being under consideration, on motion of Mr. COOK, the same was amended by striking out "paper credit," and inserting the word "bills." The remainder of the amendments made in committee of the whole to the article were severally concurred in, with the exception of those to section five, in which the Convention refused to concur.

The article being open to amendment, Mr. VAN VALKENBURGH moved to strike from the sixth section, up to and inclusive of the word "indirectly," in the

second line, and insert "the legislature shall pass no law directly or indirectly sanctioning." Which was disagreed to.

Mr. COMSTOCK moved to amend section three by inserting in line two, after the word "liable," the words "to the amount of their respective share or shares of stock in any such corporation or association."

Mr. COMSTOCK did not offer this to embarrass the passage of the article, but to make it as perfect as possible. It will be seen by gentlemen that there are many persons who possess a small capital; and if this be a privilege, why should we deny them a participation? As it stands at present, a small capitalist could not feel safe. Larger capitalists who have the control, might; and the effect would be to throw it entirely into their hands. I allude more particularly to the plank road charters. If made liable only to the amount of their stock, it would draw out capital from our own State into useful operation. A good many small towns have small capitalists who would use it, under charters that would not be oppressive, for the benefit of themselves and the public.

Mr. CORNELL did not consider the section worth much, any way; but it would be worse than nothing if that amendment was made.

The motion was lost.

On motion of Mr. COOK, section six was amended by inserting in the first line, after "law," the words "authorizing or."

Mr. J. D. PIERCE moved to amend section 4 by striking therefrom in the third line, "in State stocks;" and in the third and fourth lines, the words "bearing interest, or stock of the United States."

Mr. J. D. P. said—I am unwilling by my vote to help establish the principle in this State of banking upon debt. The effect will be to give a double interest to all our State stocks, banking upon the indebtedness of the country; and that I consider no basis for banking. What will they sell for? If they will not sell, where is the protection to the bill holders. I am unwilling to see a principle of this kind established in the constitution. I therefore, upon this proposition, ask the yeas and nays.

Mr. CHURCH—The effect will be that they will offer anything.

Mr. McCLELLAND inquired if the gentleman from Calhoun wanted mortgages on lands for security. He supposed not, however.

Mr. J. D. PIERCE—No sir. I leave the proper security to be given by those who want banks. I do not want the principle established, that banking in this State shall be based upon debt. By this plan, the holders of stock gain double interest for the money they have loaned.

Pending which,

Mr. WEBSTER moved that the article be committed to the committee on corporations, with instructions to amend the same as follows, viz:

Strike out section 2, and insert as follows:

"No banking law, or law for banking purposes, nor any act creating, renewing or continuing any association or corporation for banking purposes, shall ever be enacted by the Legislature."

Amend by adding a new section to stand as section 3, as follows:

"No law now in force in this State creating or authorizing any bank or banking institution, or incorporating any company or association for banking purposes in this State, shall extend to or have any force or effect after the first day of January, 1853; and no such institution now existing in this State shall issue any note or bill, to be circulated as money, after the first day of January, 1851."

Mr. COOK moved the previous question on the article, and the call being seconded by a majority of the members present, the main question was ordered to be now put.

The amendment proposed by Mr. J. D. PIERCE was then rejected by the following vote:

YEAS—Messrs. P. R. Adams, Backus, Bagg, Barnard, H. Bartow, Beardsley, Bush, Church, Crary, Eaton, Gardiner, Hanscom, Hascall, Lovell, J. D. Pierce, Soule, Webster, White, Williams, Woodman—20.

NAYS—Messrs. W. Adams, Alvord, Arzeno, Axford, J. Bartow, Britain, Ammon Brown, Burns, Chandler, Choate, Comstock, Conner, Cook, Cornell, Crouse, Danforth, Desnoyers, Dimond, Fralick, Gale, Gibson, Green, Hart, Harvey, Hathaway, Kingsley, Leach, Marvin, Mason, McClelland, Mosher, Mowry, Orr, N.

Pierce, Redfield, E. S. Robinson, Rix Robinson, Skinner, Storey, Sturgis, Sullivan, Tiffany, Town, Van Valkenburgh, Warden, Whittemore, President—47.

The main question being on ordering the article to a third reading, it was so ordered by yeas and nays as follows:

YEAS—Messrs. P. R. Adams, W. Adams, Arzeno, Axford, H. Bartow, Beardsley, Britain, Ammon Brown, Burns, Chandler, Choate, Church, Conner, Cook, Cornell, Crouse, Danforth, Desnoyers, Dimond, Fralick, Gale, Gibson, Graham, Hathaway, Kingsley, Leach, McClelland, Moore, Mosher, Mowry, Orr, E. S. Robinson, Rix Robinson, Skinner, Storey, Sturgis, Sullivan, Tiffany, Town, Van Valkenburgh, Whittemore, President—43.

NAYS—Messrs. Alvord, Backus, Bagg, Barnard, J. Bartow, Bush, Crary, Eaton, Gardiner, Green, Hanscom, Hart, Harvey, Hascall, Lovell, Marvin, Mason, J. D. Pierce, N. Pierce, Redfield, Robertson, Soule, Warden, Webster, White, Williams—26.

Mr. BAGG moved to take up the article entitled "Elections;" pending which,

On motion of Mr. McCLELLAND, the Convention adjourned.

THURSDAY, (45th day,) August 1.

The Convention met pursuant to adjournment, and was called to order by the PRESIDENT.

Prayer by the Rev. Mr. TOOKER.

PETITIONS.

By Mr. MOORE: of Jacob French and 45 others of St. Joseph county, praying an article may be incorporated in the constitution prohibiting the Legislature from passing any laws authorizing the sale of ardent spirits as a beverage.

Referred to the select committee upon the subject.

Also, of John Hotchin and 46 others of St. Joseph county, that the Convention will insert an article in the constitution prohibiting the labor of convicts in the State prison from coming into competition with other mechanical labor.

Referred to the committee on miscellaneous provisions.

REPORTS.

Mr. GARDINER, from the select com-

mittee on the traffic in ardent spirits, submitted the following:

Resolved, That at the next general election, and at the same time when the votes of the electors shall be taken for the adoption or rejection of the revised constitution, the additional amendment in the words following:

"All laws now in force licensing the traffic in ardent spirits or intoxicating drinks are hereby abolished, and the Legislature shall have no power to pass any laws licensing the traffic in ardent spirits or intoxicating drinks; but the Legislature shall have power to pass laws regulating or prohibiting the traffic in ardent spirits or intoxicating drinks."

Shall be separately submitted to the electors of the State for their adoption or rejection, in form following, to wit: A separate ballot may be given by every person having the right to vote for the revised constitution, to be deposited in a separate box. Upon the ballot given for the adoption of the said separate amendment shall be written or printed, or partly written and partly printed, the words "prohibiting license of the traffic in ardent spirits—yes." And upon all ballots given against the said separate amendment, in like manner, the words "Prohibiting license of traffic in ardent spirits—no." And on each ballot shall be written or printed, or partly written and partly printed, the words "Constitution—License," in such manner that such words shall appear on the outer side of each ballot when folded. If, at said election, a majority of all the votes given for or against the said separate amendment shall contain the words "Prohibiting license of the traffic in ardent spirits—yes," then the said separate amendment shall be a separate section in the article entitled "Legislative Department," in the constitution, in full force and effect.

Also at the same time, place and manner as aforesaid, the additional amendment in the words following:

"From and after the first day of January, in the year one thousand eight hundred and fifty-four, the traffic or vending of ardent spirits or intoxicating drinks, except for mechanical, medicinal or chemical purposes, shall be prohibited."

Shall be separately submitted to the electors of the State for their adoption or re-

jection, in form following, to wit: A separate ballot may be given by every person having the right to vote for the revised constitution, to be deposited in a separate box. Upon the ballots given for the adoption of the said separate amendment shall be written or printed, or partly written and partly printed, the words "Prohibiting the traffic in ardent spirits—yes;" and upon all ballots against the said separate amendment, in like manner, the words "Prohibiting the traffic in ardent spirits—no." And on such ballots shall be written or printed, or partly written and partly printed, the words "Constitution—traffic in ardent spirits," in such manner that such words shall appear on the outer side of such ballots when folded. If, at such election, a majority of all the votes given for or against the said separate amendment shall contain the words "Prohibiting the traffic in ardent spirits—yes," then the said separate amendment shall be a separate section in the article entitled "Miscellaneous Provisions," in the constitution, in full force and effect.

Which was laid upon the table and ordered printed.

On motion of Mr. GARDINER,

Resolved, That the Secretary be authorized to draw a certificate upon the State Treasurer in favor of Mr. Martin Mahon, for three dollars per day, for his services as reporter of this Convention, commencing on the 16th day of July last.

On motion of Mr. LEACH,

Resolved, That the committee on supplies be instructed to report to the Convention, as soon as practicable, the kind and quantity of stationery purchased for the use of the Convention, and the price paid for the same.

On motion of Mr. J. BARTOW, the Convention was then resolved into a committee of the whole on the article entitled "Judicial Department," Mr. Cook in the chair.

The consideration of the substitute offered by Mr. McCLELLAND for section 2 being resumed,

Mr. WARDEN moved to amend the same as follows:

Strike out all between the words "supreme court," in 3d line, and "shall," in 4th line, and insert "four of whom shall constitute the supreme court, and a concurrence of three."

Mr. CHURCH moved to amend by striking out all after the word "courts," in the second line, and inserting as follows: "Shall constitute a Supreme Court, and four of said judges shall be a quorum able to transact business, and the concurrence of three of said quorum shall be necessary to a final decision. The Legislature shall have power, whenever they deem it expedient, to organize a separate Supreme Court, with the jurisdiction and powers prescribed in this constitution, to consist of one chief justice and three associate judges, to be elected by the qualified electors of this State. Said separate Supreme Court, when established, shall not be changed or discontinued by the Legislature for eight years after its organization. The judges thereof shall be so classified that but one of them shall go out of office at the same time, and their term of office shall be eight years."

Mr. C. said there was a difference between his proposition and the substitute, in one or two particulars. It provides for the object which the delegate from Livingston [Mr. WARDEN] wishes to attain—how many of the judges shall be a quorum, and how many shall be required to make a decision. It also gives to that court, whenever established, an existence of eight years, conforming with the number of judges—one going out of office annually.

Mr. McCLELLAND had no objection to the amendment of the gentleman from Kent, [Mr. CHURCH.] The amendment of the gentleman from Livingston [Mr. WARDEN] was in conformity with his own views; still there might be objections to it. It did not read exactly right. Many believed it would be better for four to constitute a quorum, and let the Legislature designate which four they shall be, or leave the judges to determine. Whatever system might be adopted, he wished it to be tested before it was liable to change by the action of the Legislature. He was opposed to the independent system, but if adopted, it ought to have a full trial. He did not want a system to be undergoing constant change.

Mr. BRITAIN—I wish to ask the gentleman from Livingston if the design is to permit less than four to hold a court.

Mr. WARDEN—My proposition is that four shall constitute a court, and the con-

currence of three of the judges be required for a decision.

Mr. BRITAIN—That is, four shall constitute the court, but the legislature may provide that three shall constitute a quorum. If that is not the case it should be so provided. The bill provides that four shall constitute a court, and three a business quorum, and the concurrence of all the three to give a final decision. The difficulty is this: if three constitute a business quorum, and a case comes before them on appeal, it requires the concurrence of the whole three to reverse the decision of the court below. The decision of the court below may be affirmed by one dissenting judge, with a decision of two of the judges of the supreme court against it; and it goes out to the world as the decision of the Supreme Court, when, in fact, two-thirds of the Supreme Court were against it. Is that right? If the whole three do not concur, the decision of the court below is made the decision of the Supreme Court, though two of the judges may be in favor of its reversal. You should either require four judges to be present, or permit two out of three to make a final decision.

Mr. McCLELLAND did not see any force in the objection made by the gentleman from Berrien. The concurrence of three of the judges is required, whether the court consists of three or four judges. As the amendment of the gentleman from Kent was a little broader than that of the gentleman from Livingston, he would suggest to the gentleman from Livingston the propriety of withdrawing his proposition.

Mr. WARDEN agreed to withdraw his amendment, and the question being taken on Mr. CHURCH's substitute, it was adopted.

Mr. J. BARTOW—As it involves a question of great importance, and as the responsibility is thrown on the profession, it is necessary that they should express their views. I regret (said Mr. B.) that the discussion is thrown on the profession; others are more interested. They can live under any system; the worse the system, the better for them. As the responsibility is thrown on them, if the system which may be adopted should fail, they will have to assume the responsibility. Every man is interested; every domestic relation, all the rights of property, are involved; and here the discussion goes on among a few

members of the bar only. Though I will not shrink from responsibility, if men whose interests are concerned sit here and vote, they must also be responsible. I shall endeavor to show the propriety of adopting the substitute, because I believe it is the best and safest plan, the only thing that is practicable, and, in accordance with the spirit of the age, the requirements and the business of the times.

It will be admitted by all that we are more likely to procure able men, men more likely to discharge the duties of the courts, by having the two systems united. The more you enlarge the duties of the office, the more you elevate its character. The greater the duties of the office, the more will carefulness be exercised in electing a person to perform those duties. You would not find a judge of the Supreme Court doing the business of a justice of the peace; nor a justice of the peace advanced to the Supreme Bench. As you increase the character of the office, so you increase the character of the man who officiates; and so will be increased the watchfulness of the people in electing them. For these reasons I have come to the conclusion that the system proposed in the substitute will be better than that reported by the committee.

Are we not to have business men? The business has to be done by some system, and the judicial business of the State must be performed. The question of economy ought not to come up, for one involves it as much as the other. If it does, it is in favor of the circuit system. But it would be like putting it up at contract if urged on the score of economy. We have got a certain thing to do—the judicial business of the State must be performed. The question is how it can be best done—by making one court inferior to the other, with men inferior to the other—or by making one set of men, who, uniting the functions of the two, perform the duties of both. Those who shall be brought into office by their own character and standing, are most likely to perform their duties. It appears to me that you cannot compare them, and have one favorable impression of the reported article.

Mr. HANSCOM—Would not the gentleman, under this system, make a distinc-

tion between the judges of the Supreme Court and the others.

Mr. J. BARTOW—Not at all. Four shall make a court, only for the time being. In any system it may be proper that some should be excluded—that the judge that tried the case shall be excluded. Although in the courts of law in England, the judge who tried the case has never been excluded. And in the States, in one of the best courts in the United States, they allow the judge who tried the case to have a voice in its final decision. When the practice was to do so, there was never any complaint. In all the courts in England, the judge trying the case has as much to say on revision as the others.

In New York, at the commencement, the judge had all to say about it; the others ascertaining from him the circumstances of the case. No complaint existed; but they finally excluded the person trying the case because they thought it had a speciousness of unfairness. Have not the judges to put their opinions on record and print them? How can profligacy and corruption follow under such a system? Can such a thing as personal favor to a brother judge influence their decisions? It is absurd. I think the gentleman from Wayne, [Mr. Goodwin,] who was once on the supreme bench, ought to have told us it was not true. He told us of expressed public opinion, but he said not one word about this truth. He ought to have told us. The obligation rested on him to say whether it was true or not. If we are to get better judges, and get them cheaper, (I hate to refer to cheapness; any system is cheap that is good—any is dear that is bad,) if it is doing the judicial business of the State as it should be done, if, by the system we propose, it can best be done, let us adopt it. I am not prepared to say yet that I will not go for any other system; but I believe this is the best system.

We are not assembled here to support systems, but establish principles. Let us adopt that which is most likely to promote the good of the people. The system proposed by the gentleman from Monroe appears to me to contain all the elements of good, and I shall support it.

Mr. KINGSLEY said—The question now before the Convention is so important, that I am unwilling to give a silent vote upon

it. I did not come here with any very strong prejudices for or against either system. No instructions on this point have been received by me, either from the bar or the people at large of the county which I in part represent.

The two systems are not so completely before us that we can judge easily of their comparative merits. They are merely shadowed forth. To judge understandingly, we should know the number of judges necessary to carry out each system, how all these judges are to be elected, whether by general ticket or in districts, what salaries the several judges are to receive, whether the Supreme Court judges, if an independent court is established, are to receive larger salaries than the circuit judges. These and some other of the details of these systems should be better known to enable us to judge well on the subject. Looking at the bill before us, reported by the committee on the judicial department, it will be seen that the number of the judges proposed for the Supreme Court is increased from three to four. The bill must be and will be so amended as to increase the number of judicial circuits and circuit judges from five to seven. A less number will not do the business under that system; and it is an indispensable part of our duty to see that the business is all done and done speedily. Any system that does not this will be condemned. In this system, then, not less than eleven judges will be required to do the business of the Supreme and Circuit Courts.

Under the system proposed by the amendment, eight judges will do the business of the Supreme Court and of the Circuit Courts. It will require that number to do it. This will be three less than will be required by the other system. I would have elected for these Circuit Court judges, who would also be Supreme Court judges, the best men in the State. They should be selected from the State at large, and voted for by all the electors in the State, or elected by the electors in each circuit. If elected by the circuits, the electors should select these judges from any part of the State; but when elected he should reside in the circuit for which he is elected. The people of each circuit will be ambitious to put the best man they can get upon the supreme bench. The judges

should all be of one grade, should receive the same salaries, and be subject to perform the same duties.

We have had some petitions upon the subject of courts from attorneys and others; but when they are taken together they furnish us no reliable guide as to which system of courts should be established. Take for instance the petitions from Pontiac and from Jackson. The bar in each of those places are large and respectable, of nearly equal size; they must have thought upon this important subject, yet their opinions are exactly opposite one to the other. Look again at Kalamazoo. A part of the bar there have asked for an independent Supreme Court, and given reasons for their preference. The remainder of the bar, with many of the other citizens, have asked for the Circuit Court system, are opposed to the independent court, and have given equally good reasons for their preference. I endeavored to get the opinion of the bar at Ann Arbor, as they had sent no petitions here upon the subject. They were not very communicative, but seemed to think if we got up a system that worked well and gave satisfaction, it would be well enough. On the contrary, if we should get up a system that should fail, *it would be a failure*. This was not very definite, yet I inferred from what they did say, and did not say, that they favored the Circuit Court system rather than the independent Supreme Court, as they knew that my mind was that way, and they took no pains to convince me that I was wrong. From what we have gathered of public opinion, it would seem that the question before us is very evenly balanced, or the gentlemen of the bar in different parts of the State are operated upon by different motives.

Not being instructed by our constituents, or enlightened by their advice upon this subject, it is safe to be guided by the experience of others—to look to other States for precedents, and to follow the example of those who have had the most experience on the subject under our consideration. The main question in dispute is: shall we require the judges of the Supreme Court to try causes in the Circuit Courts? or which is the same thing, shall the judges who do the business in the circuits constitute the Supreme Court?

We are in the habit of looking to England for example, in many things; and the system of her courts, and manner of administering justice, will furnish us a good example now. She has no independent Supreme Court. Her most eminent judges of the common law courts have grown up to eminence on their circuits in the trials of issues of fact. No State or country has produced more able judges than England. No authorities in the law are superior, or equal to the English authorities, even in this country. The courts established by the United States furnish another example for those of us who prefer the Circuit Court system, called by some the *nisi prius* system, by way of distinction from the independent Supreme Court. It is not a *nisi prius* system, but it is a system which requires the judges of the supreme court to do service upon the circuits. It is that which gives it its distinctive character. That is the kind of court which we propose to establish by the amendment now proposed. We will now look, for example, to New England—to all the New England States—the father and mother of us all. Those States commenced with and have grown up under such a system as we now propose to establish here. It has never failed there. It has been efficient and satisfactory. Many distinguished judges have been reared up there under that system.

We will look to New York, and from that State draw an argument in favor of this system. Previous to the year eighteen hundred and twenty-one, the judges in that State held both courts.

The constitution of that State, made in 1821, changed the system, and established an independent Supreme Court, which existed for twenty-five years. In 1846 another convention was convened in that State to alter its constitution; and with the experience of the past, and a full knowledge of the workings of both systems, that convention established their Supreme Court nearly upon the principle on which it was formed previous to the year 1821—a court of the kind which we propose to establish. Here is an argument for the system stronger than can be drawn from the continued practice of any one State. It is the example of a great State which has tried both systems, and finally preferred that system which requires the judges to try causes in

the circuits. Those who compare the reports of the Supreme Court of the State of New York, previous to 1821, with those made in the twenty-five years thereafter, can judge which system made the best judges. No reports in that State are in higher repute than Johnson's. It is said the court of appeals, the court of last resort in the State of New York, is constituted differently from the court here proposed. True it is; but we propose no court similar to that. Few causes go into that court there, and we dispense with it entirely, as it would make our whole system too expensive for the State.

To the above may be added, for example, the States of Pennsylvania, New Jersey, Ohio, Virginia, and I know not how many of the Southern States. On the other hand, it has been urged here that the States of Indiana, Illinois, Iowa, Kentucky, Tennessee, and some other States, have adopted the independent Supreme Court. Even California has been mentioned as worthy of our example in establishing our judicial system. But, whether it is safer to follow the example of these comparatively new States, or the example of those old States that have existed ever since we became, and before we were, a nation? The judicial systems in the new States are as yet but experiments, while those of the old States have the sanction of many years to recommend them. Who looks for legal authorities from the reports of Kentucky, Tennessee, Mississippi, Arkansas, or Texas, if he can find the authorities he wants in the reports of Massachusetts, Vermont, Connecticut and New York, or the English reports? Where we find the best reports, we must look for the best courts and judges. It is said that in the State of Indiana they have an independent Supreme Court, and that it is a good one, and that the reports are good. Grant this; there seems to be an exception in Indiana. It is the only green spot in the whole legal desert that we have been called upon to look over. It is said that Judge Blackford is a remarkably good judge. He has given authority to his reports. But more of this by-and-by.

I am strongly opposed to the system which establishes an independent Supreme Court, on the very ground urged by some gentlemen in its favor. When it is said on

one side that the Supreme Court judges will soon become mere technical lawyers, (if not required to do Circuit Court business,) and decide according to the very letter of the books, without improving upon the past, the truth of the remark seems not to be denied. But it is said in answer, that under the proposed system, the Supreme Court judges will be frequently leaving the bench, and that their places will be filled with Circuit Court judges. It is said the Circuit Court judges will be ambitious so to distinguish themselves on their circuits, as that they may be called by the people to a seat on the bench of the Supreme Court. Here, then, it is proposed to start; with a radical, a most mischievous error in the system establishing an independent court. A premium is offered for those who shall be swiftest in the race of popularity. You say: true, you will soon become useless as judges of this court of the last resort, but we are rearing up in a practical school those who will be qualified to fill your places better than you can fill them. You say to the Circuit Court judges, we have placed you in this more humble position, but design you for a seat on the bench of the Supreme Court, if you can become a better judge than some that are there. Now, it is plain that the position in which the judges in the Supreme Court and Circuit Courts would be placed, in relation to each other, would beget jealousies and discords between them. It would doubtless happen that you would have among the circuit judges, men superior in legal learning and ability to some on the bench of the Supreme Court. These men will themselves feel and know that superiority—the people will see it; and you say here in advance that those men shall have the first vacant seats on the supreme bench. In this position of things, allowing human nature to be operated upon in the natural way, when a judge of the Circuit Court is seen growing into favor with the people, and gaining celebrity as a judge, the judges will lay their hands upon him to crush him. They will not look with favor upon the acts of those who are aspiring to their seats. I have understood from those who practiced law in the State of New York when the Supreme and Circuit Courts were distinct, that one of the great evils of the system was the disagree-

ment and bad feeling that existed between the judges in the two grades of courts. And there they had not the same motives for jealousy and discordant feeling as under the system here proposed, as the rivalry could not exist there that would here.

It is said by some that the system which allows the judges of the Circuit Courts to constitute the Supreme Court is objectionable, because the judges of that court will be inclined to sustain the decisions of their associates, although erroneous; each judge knowing that his own decisions are to pass under the review of his associates. That each judge will look with favor upon the decisions of his associates from sympathy, hoping that the favor will be reciprocated. It has been said out of doors, if not on this floor, with a view to bear on this question, that a system of log-rolling is carried on among the judges of the Supreme Court to sustain in that court the decisions made in the circuits. I hope gentlemen here whom this charge will reach may answer to it. I do not believe it to be true. Nor do I believe in the policy which excludes from the bench, on the review of a decision, the judge who first made the decision. It is against the practice of most other States in like cases, and cannot be sustained by sound reasoning. A judge may decide wrong upon the circuit, without much argument, without time or books to investigate the question and in the hurry of business. The decision is no disgrace to him. It is an error which any good judge might have made. His decision is carried up for review. What does the law say to him? It says, you have done a wrong act, which is to be examined in a higher court, and you must not be heard or seen about, when that act is examined. Or the decision may have been entirely correct by the judge on the circuit, and yet carried up to the higher court by an attorney ignorant of the law, but the law says to him the same.

Who, it may be asked, is better able to judge of the correctness of a decision than the judge who made it? If he has committed an error in deciding a question of law, or if it is thought he has, he will investigate the question with more diligence than any other judge, and will be more anxious than any other one can be to correct the error. He would claim it as a

privilege to be in a position where he could officially announce a decision which should correct his error. It is not uncommon for judges to do so. A judge making a decision on the circuit, claimed to be erroneous, will examine authorities closely, to know if it be so. He will reflect upon the disputed point. In his observation upon the bench, and in his examination of books, he will hold in his mind every principle that bears upon it, and would, if allowed, go upon the supreme bench far better qualified to decide rightly than any other member of the court.

The gentleman from Genesee [Mr. J. BARTOW,] was right in what he said upon that point; and I was sorry to see that he felt compelled reluctantly to admit that it might be wrong for a judge to participate in a review of his own decision. In the high courts of England, in the United States court, and in many of the best Supreme Courts in the States, judges are not excluded from the bench when their own decisions are being reviewed. In New Jersey and Pennsylvania it is otherwise; but the judge who made the decision in the court below is required to give to the Supreme Court his reasons in writing for making the decision appealed from.

Again, I have heard it urged against the present system of our courts, that the judges frequently reserve a question for the decision of the Supreme Court before they decide it in the Circuit Court; and therefore, when it is decided in the lower court, it is useless to take the cause to the Supreme Court, as it has already been decided there. Now this, so far from being an objection, is an argument in its favor. The attorney's generally consent to the judges reserving the question; and if the decision of the court in the last resort is had upon the question, without cost to any one, it is certainly an advantage. The object of the law and of the party is obtained by having a doubtful question thus quickly and without expense decided by the highest tribunal in the State.

This thought brings to my mind another objection to the independent Supreme Court. If we establish six or eight Circuit Courts in the State, the judges of which will have no connection with the Supreme Court, there will be many different decisions on the same questions; each Circuit judge de-

ciding according to his own judgment of the law and the practice. They will put different constructions upon the constitution, the laws, and even the rules of court. They will manufacture a plenty of the raw material for the use of the Supreme Court. If the judges of the Circuit Courts constitute the Supreme Court, they should be, and would be frequently together, and compare notes; they would establish a uniform practice; there would be a greater uniformity in their decisions on like questions; in fact, a oneness in the system; a sameness in the tenor of the decisions in the different circuits, which would go far to make the decisions there final.

It is desirable that the courts having original jurisdiction should be the best we can obtain. It is in them that all the business first comes, and is mostly done. If the community have confidence in these courts, suits will end there. Nothing will tend more to give that confidence than placing the best judges on the circuits; those who are to compose the highest court. If the Circuit Courts are composed of second rate judges—if they are paid less salaries—if they are stamped in the commencement with the mark of inferiority—if all are told that there is a higher and more able court which will correct their errors, parties will be dissatisfied with many decisions, and far more causes will be carried up for review.

Let us view this subject in another light. If we do not adopt a judicial system which will give occasion for carrying up to the Supreme Court many more causes than are now carried there, the Supreme Court, if not required to hold Circuit Courts, will have very little to do. The gentleman from Monroe [Mr. McCLELLAND] has said, that according to the reports, the Supreme Court decides about thirty causes in a year. I perceive by a report before us, that the Court, last year, was in session five days in Pontiac, four days in Jackson, and one day in Kalamazoo; making ten days in all. It does not appear how long they were in session at Detroit. The judges go there to hibernate. They are in session sometimes, and sometimes not. They may hold a court there two months, or call it three in all. In that time all the business that goes up from the Circuit and County Courts is done, and more might be done in that

time if they had it to do. But they do all the business, and nothing more can be required. It is evident, then, that unless we establish a system, which will furnish more causes for that court than they have heretofore had, they will have very little to do. Those of us who would require the judges of the Supreme Court to try causes on the circuits believe it would make better judges of them. There is no better school for a judge than a court of justice, in which he is engaged in the trial of issues of fact before himself or a jury. Nor is a judge less competent for having much to do. Those have found the most time to investigate legal subjects, and have become the most celebrated as authors, who have been most engaged in the trial of causes. Some one has quaintly observed, that "those who have the most to do, find the most leisure to do something else;" and it might be added, that they generally do that something else better than those who have little or nothing to do.

It is the duty of a judge to define and administer the law; to lay down a correct rule of human action. To be able to do this, he must be acquainted with men as well as books; he must be acquainted not only with the springs of human actions, but with the actions themselves. A judge may know the law as it is laid down in the books, and he may be able to decide a question presented to him according to the books, and yet not be a good judge. He would remain stationary without the practice of trying causes on the circuit. He would not, from his experience and wisdom, be able, like Mansfield, Marshall, Parsons, and many others, to overrule the erroneous decisions of others, and maintain his own upon the unerring principles of justice.

Take, for instance, a physician, learned in his profession, one who has studied all the books on diseases and the practice of medicine from Esculapius down, let him have had an extensive practice in his art, then take him from his practice, shut him up among his books and require him to prescribe for the diseases of others without seeing them, and he would fail. You might carry to him the most minute description of the patient and the symptoms of his disease, and he could not prescribe for him skilfully. To do so, he must see his patient, feel his pulse, observe his

countenance, watch his breathing; in fine, he must learn the nature of diseases by attending on the diseased; and a judge, to be distinguished as such, I repeat, must understand human nature, as well as books.

To return for a moment to what has been said of the example of other States, we will compare authorities. As an offset to Indiana, which stands as the best authority in favor of establishing an independent Supreme Court, I will name Old England and the United States; by the side of Illinois I will place Massachusetts. The rest of the New England States and New York, New Jersey, Pennsylvania, Ohio and Virginia may be passed off with the West and South-Western States, and the balance struck. It will be against the independent Supreme Court.

Another consideration worthy of notice is, that few States elect their judges by the people. We are to elect ours. If the people are to elect the judges, there is a propriety of placing them where they can be known by the people. Elect judges of an independent Supreme Court, as is proposed, and you remove them from the view of the people; the juries, the suitors, the witnesses, the attendants at the trials of causes, see them not. They will be known to the people only through the attorneys who practice in that court.

I have not said all I have thought on this subject. What I have said has occurred to me at this time. I am not over anxious about which system shall be adopted. We have tried the Circuit Court system. It failed to give satisfaction only because the business in court was not promptly done. If the business is done quickly, so that there shall be no complaint of the delays of court, there is no danger of a failure.

I have preferred the Circuit Court system here proposed, for several reasons. It will require a less number of judges to do the business; it will secure better judges on the circuits, or at least those in whom community will have more confidence, and it will bring the judges within view of the people who elect them. The system will be more economical, while it will be more efficient. Under it more causes will be decided finally and satisfactorily on the first trial. It is a system

which we understand ourselves, and it has the sanction of other States having the most experience.

Mr. BAGG said—Mr. Chairman, I propose to make a few remarks upon the subject now under consideration. I am in favor of what is called the independent judiciary system—for the article now before us as reported by the committee. When this Convention was called, sir, from what I heard, and from my own knowledge upon the subject, no one subject called so loudly for reform as our judiciary system. There is a want of confidence, not only by the bar, but the people, in the present system. Sir, there is something in the doctrine of the three degrees in this matter. The doctrine of degress is to me inexplicable. I only know it exists. It not only runs through all nature, but through the whole system of our government; as well in the general government as in the State government. Your government is divided into the executive, legislative and judicial. Your Legislature is divided into supervisors, by your recent action, the House of Assembly and your Senate. One might take any and all other subjects, and show that they are thus divided, and perhaps to philosophically correspond with cause, effect, and end. Why, then, not make, while we are about it, a judicial system according to philosophical principles? You have now your justices of the peace. Then let us have the Circuit Court in the centre; and what is termed here the independent Supreme Court, or court of last resort, above. Then you have a general system, distinct in one sense, yet continuous in another. Let your circuit be an appellate court from your justices of the peace, and your independent court, by writs of error, or otherwise, from the circuit. You then have a simple system, which is a continuous line, with different degrees, one above the other, and all sufficient for judicial purposes of this State. Now, with the present system, sir, is there not sympathy on the one hand and prejudice among the judges on the other? Why, sir, what will common sense say upon this subject? Did any man ever look on and see two dogs fight but what he took sides almost instantly, and wished one particular one to whip, although he had never seen them before.

Does any man in this Convention believe that a circuit judge of this or any other State, after he has tried a case, has heard the testimony, the arguments *pro* and *con*, and given his decision, when that cause has been removed to the Supreme Court, but was inclined to support there his decision? Would it not be right so to do? Men see things differently. Their judgments on the same subject are different, and although they might make an erroneous judgment, yet in nine cases out of ten they will adhere to their first decision, right or wrong. Judges are but men; they are under the same influences as other men. To elucidate by comparison: when I came into this Convention I was wedded to no particular system; I held myself ready to be impressed with what was just, right and proper; I went into the committee room free and unbiassed; I was rather inclined, from what light I received upon the subject, to go for an independent court, and voted for the same. Now, I have a pride of opinion. How it comes I know not, except by that undefinable something, termed sympathy. Human nature is the same. All are governed by the same laws. Do we not all know that it is hard, after a committee have made a report on any subject to this Convention, to make an inroad into it? And what is this owing to but to the same principle? A pride of opinion, a judgment already formed, and a laudable adhesion thereto, from a consciousness of its justice. Precisely so, in my humble estimation, are the judges of the Circuit Courts liable to adhere to their prejudged decisions, made in the circuits, when called upon to revise them when sitting in banc in the court above. But, say the gentlemen across the way, the judge who tried the case below does not sit in judgment in banc above, on his own case. Suppose he does not. In cases almost equally balanced, with authorities of refutation on either side, cannot he log-roll with his fellows in the same condition? Would they not condescend, possibly, to act out nature, and act like other interested men for self, and say, you scratch my elbow this time, and I will scratch yours the next? We must preserve our reputation. I think I am right in that decision. Don't you, under the circumstances? Is this not human nature? Is it imaginary? I

think not. Thus much from *sympathy*. Now, in regard to the opposite influence, *prejudice*. Should the amendment of the gentleman from Monroe, [Mr. McCLELLAND,] as proposed to be amended by the gentleman from Kent, [Mr. CHURCH,] prevail, we shall have to increase our judicial force to seven or eight circuit judges. Thus, then, we should have this squad or cohort of legal gentlemen, all vying with each other, to see which shall be uppermost; all running the race of popularity, each trying to outstrip the other in mounting the highest round in the ladder of legal ambition. Think you not that under these circumstances legal human nature will not *out*, and show herself like human nature under other circumstances? Will not many decisions be reversed through prejudice, competition for elevation and what not? Have there not cases under the present system transpired under these influences? It strikes me there is danger from both these causes, if the system of the gentleman from Monroe [Mr. McCLELLAND] prevail. System, did I say? He proposes no system. This amendment is but to upset the independent system proposed by the committee. Should this second section of the article be struck out, and the amendment substituted, we have got to go on and make details for him, and perfect his article. Why not show his whole hand at once, and let us know what he wants? Why not give us his system? Sir, I hope this amendment will not prevail. We can then go on, and instead of this half circuit and half supreme, half horse and half alligator, this mixed and mongrel court, form a simple, plain court of last resort, upon philosophic principles, to the end that justice and judgment shall be speedily obtained, unbiased, unawed and unaffected by either sympathy on the one hand, or prejudice on the other.

Mr. TIFFANY—As the responsibility seems to rest entirely on the profession, I hope that the petitions of the bar may be read, that the committee may know what the opinions of the bar are.

Mr. McCLELLAND—They have most of them been read, and besides, a great many bars have not sent in any petitions. The bar of my county (said Mr. McC.) are opposed to the independent system, though they did not send any remonstrance or pe-

tition, because they thought the Convention capable of deciding.

Mr. MASON—Would the gentleman be in favor of having the judges elected by general ticket, or in the districts.

Mr. McCLELLAND—I am in favor of having the judges elected by general ticket; but it is a matter of detail which the Convention can decide.

[The petition from the bar of Detroit was read.]

Mr. McCLELLAND would inquire how many names were attached to the petition, and how many members of the bar had signed it. He supposed there were eighty members of the bar in Detroit.

Mr. GOODWIN said there were more than that number in the city. He had been informed that the petition had been got up in haste, and that many who were in favor of it had not had an opportunity of signing it. He believed a large number of the bar of Detroit were in favor of the system recommended in the petition.

Mr. STOREY called for the reading of the petition of the bar of Jackson.

[Sundry petitions were read.]

Mr. WHIPPLE here addressed the Convention at length.

Mr. HANSCOM said—It seemed to him that the friends of the Circuit Court system ought to have perfected their plan. The committee might as well not have reported, as far as this system is concerned. It would require an extra remodelling of their report. It would tend to expedite business if the friends of the system would perfect it.

Mr. J. D. PIERCE—It would so. If the committee adopt the proposition of the gentleman from Kent, or that of the gentleman from Monroe, it will be proper to recommit the subject.

Mr. CORNELL—Did the gentleman from Oakland oppose the principle of the Circuit Court system because its friends had not presented a bill?

Mr. HANSCOM said the friends of the Supreme Court have perfected their system—the opponents have not.

Mr. CORNELL considered this brought about by parliamentary chicanery. He would explain. The gentleman at the head of the committee on the judiciary reported the article, and at the same time introduced a resolution which was subsequently

to be taken up, to the effect that if the Circuit Court should be preferred, the article was to be recommitted, with instructions to report another system. It was a resolution of instructions. With that he (Mr. C.) was satisfied. That resolution lay a long time on the table. An amendment was made to that resolution by the gentleman from Monroe, [Mr. McCLELLAND;] and soon after that the chairman of the committee withdrew his resolution. Another gentleman immediately arose, and referred the report to the committee of the whole. I considered that, at the time, as a sort of parliamentary chicanery, though I would not cast any reflections on the chairman of the committee. Under the circumstances, the system could not be perfected, and the object was to present only one. If I am wrong in my conclusions, I am open to conviction.

Mr. McCLELLAND—The very object of the amendment was to advise the gentleman from Oakland. The gentleman was for taking the question on the proposition in the resolution offered by the gentleman from Calhoun, [Mr. CRARY.] Then he could go on and perfect it. That was my object, if I have not done it. I was necessarily absent from the Convention, and did not know what was going on. When I returned I did not find anything presented.

The gentleman from Calhoun misunderstood me; but when I am in error I will confess it. The language of my amendment did, to his mind, convey an idea different from his proposition. That was, making the supreme judges discharge the duties of the Circuit Court, instead of making the circuit judges sit on the supreme bench. I did not see the difference at the time, as I now do. I offered it to prevent delay, and save the time of the Convention; and every delegate will bear me out that if you perfect one system, and then another, it will occupy two or three weeks time. If you adopt that amendment, and recommit the article back to the committee on the judiciary, I believe the chairman of that committee, with his knowledge and experience on the subject, will prepare the necessary details by to-morrow morning. Any gentleman of the profession who has had experience would do it in that time.

Mr. BAGG—Mr Chairman: I have list-

ened with great attention and not a little interest to the speech just made by the gentleman from Berrien, the Chief Justice of this State; and am much obliged to him for the recitation of the experiences of not only the judges of the Supreme Court of the United States, and of the Supreme Court of the State of New York, but his own experience in regard to the Supreme Court of this State. His effort is valuable to this body, chiefly in reflecting upon it, as it were, in a mirror, in a succinct manner, the history of the action of these courts. But, sir, does it touch the subject under consideration? The gentleman is very careful to conceal his system from the committee. Indeed, he seems, between the systems proposed by the gentleman from Calhoun, [Mr. CRARY,] and the one proposed by the gentleman from Monroe, [Mr. McCLELLAND,] to stand the same relation to the two that the celebrated animal did to the two stacks of hay; so equally operated upon by attraction on either side that he stood still and starved to death. This judicial article has been delayed for absent gentlemen until this time; and yet, gentlemen do not now show their hands. Why not come out frankly, and tell us what they *do* want? We have had from the commencement a majority in this Convention for an independent system; but out of courtesy for certain gentlemen, we have condescended to wait until now; and from absence of the friends of the measure, and sickness of others, we are in a minority. I warn the opponents of the measure, however, we will yet pass it. We have got the strength and the will, and when our friends return we will yet do it. The gentleman, to be sure, delivered us a good eulogy or homily upon the various *nisi prius* and other circuit systems now in existence in other States, but did he touch the subject now under consideration? Not at all. His whole effort was, in my estimation, characterized by that principle that characterizes the optical delusion of the sailor when far at sea, and land appears at a distance; and on sailing days in the same direction no land appears. I allude to that celebrated sea phrase, "point no point."

The gentleman will not acknowledge that the judgment of the circuit judges, in sitting in banc in the Supreme Court, are effected or operated upon by sympathy; but

on the contrary, he says there have been a great number of cases that have not been affirmed, and adverts with great *emphasis* to this, to show that there has been no undue concert on this account. In steering clear of Charybdis, does he not fall into Scylla? Does he not show conclusively that they are, and would be ever, more or less operated upon by prejudice and jealousy towards each other? Sir, we talk of and propose here in the organic law to make a judicial system. Can a system be made without order? Is not order Nature's first law? How can you establish a system in the mongrel manner proposed? You have your circuit judges first give judgment in one court house below, and then let them simply congregate in another house above, and review that made below. Is there anything like order or system here? Not at all. While the independent system proposes three courts, a Justice Court, the Circuit Court in the centre, and a Supreme Court above, your other systems are a Justice Court, and a Circuit and Supreme Court jumbled together, conglomerated and mixed up.

The people have repudiated the latter, and sent us here for the purpose of making a different one. Shall we disappoint them? Should this mongrel circuit system prevail, I trust the justices of the peace shall be permitted to sit in banc in the Circuit Court, in the same manner and with the same view that the circuit judges form the Supreme Court. Their decisions are carried by appeal and certiorari to the Circuit Court, in the same manner that the decisions of the circuit judges are carried to the Supreme. If one review their decisions in the one case, so should the other, and what is proper for the one is proper for the other. But I trust that the amendment will not prevail. Should it not, we will then go on and perfect the independent system, make a system of order which can be built upon with success. We want to make at best four *big* men in this State. Men who will attend to the law and give us justice. Men that God has done something for in the manifestation of their intellectual organs, as well as what they have done for themselves by their own exertions.

On motion of Mr. WOODMAN, the committee rose, reported progress and asked leave to sit again.

The committee, through their chairman, reported progress and asked leave to sit again. Leave was granted.

When, on motion of Mr. COOK, the Convention adjourned.

Afternoon Session.

The Convention was called to order by the President.

On motion of Mr. STOREY, the Convention resolved itself into committee of the whole on the judiciary article, Mr. Cook in the chair.

The committee resumed the consideration of the substitute offered by Mr. McCLELLAND, and amended by Mr. CHURCH.

The question being on striking out,

Mr HANSCOM said—Before the question is taken, I desire to say a few words upon this important subject, and particularly to refer to the remarks that have been made in relation to the petition that I had the honor some days since to present, and which has been to-day read. That petition embodies the opinions of a very large proportion of the citizens of the county of Oakland, and expresses, as I believe, the views of the great mass of the people of northern Michigan.

The gentleman from Berrien [Chief Justice WHIPPLE] has seen proper to assail the petitioners and the petition, and charges that some of the allegations contained in it are false in fact—disclaiming as I now understand him, any intention to charge the petitioners with wilfull or intentional misrepresentation. I am glad that he has seen fit to make the disclaimer, because, sir, that petition is signed by many gentlemen of the highest character and standing—men of the first order of intelligence and of undoubted probity and honor—men entirely incapable of misrepresenting upon any subject, and least of all, upon one of this grave magnitude and import. But, conceding them in error, which I certainly do not, and assuming as true what is alleged by the Chief Justice, (and I have certainly no wish or desire to contradict him,) that the present condition of business in the Circuit or Supreme Courts does not warrant the allegations in the petition—conceding, if you please, that there is no unfinished business now pending in the Circuits or in the Supreme Court, and what does it prove, as applied to the question

under consideration? Exactly nothing. And for this most obvious reason: that, since 1846, we have had in every county of the State, a local judicial tribunal that has finally absorbed the whole business of the Circuits; so far, at least, as its original jurisdiction was concerned, except as applied to causes in equity. Consequently, the business of the Circuits for the past three years has been merely nominal; and as a necessary result, the judges have had ample time and most abundant leisure to clear the dockets of both the Circuit and Supreme Courts; and were there now pending any considerable amount of business undisposed of in either of those courts, it would furnish good ground for the removal of the judges from their offices, as contemplated by the provisions of the present constitution.

Take, as an illustration, the county of Oakland, where, prior to the organization of the County Courts, the Circuit was in session from three to five months in each year; a few days now suffice to dispose of the business in that court, and in lieu of it we now have an almost continuous term of the County Court from the beginning to the end of the year. Now, sir, it is proposed by all parties on this floor, and both systems of judiciary that we have mooted contemplate the annihilation of the County Courts. Your plan restores the old system, or rather continues it as it was before the creation of County Courts; and the simple abolition of County Courts constitutes the only real change that the opponents of a separate Supreme Court are proposing. It is but the continuation of the present system; a system that experience has most fully proven to be entirely inadequate to the exigencies of the State. We propose the adoption of a new, or at least a different, system--what gentlemen have been pleased to call an experiment, an untried experiment; and I, for one, most deeply regret that it has been so long an untried experiment in our State. Such, however, is not the fact: in most of the western and southern and south-western States, it has been tried, and that too with entire satisfaction to the people of those States. You have but to cross our southern border to find a system analogous to that we propose in existence. There it has existed unchanged since the admission of Indiana into the

Union; and what citizen of that young but already gigantic State but can point with satisfaction and pride to the decisions of their Supreme Court, and that a separate tribunal composed of only three judges? Sir, no State in this Union has as yet, in the brief space of twenty years, been able to organize a judiciary system, and acquire for it and the adjudications under it, so proud an eminence as the State of Indiana. The reports of her Supreme Court are cited and held as high authority in the courts of every State of the Union; and even at a much earlier day than the present in her judicial history, we find Chancellor Kent paying the high tribute of his admiration to her system--to her judges and the able decisions formed in her books of law reports.

I have already, on a former occasion, stated briefly what in my judgment would constitute the advantages of our system, and have also on another occasion attempted a defence of it, against the objections urged by several gentlemen, particularly the gentleman from Monroe, [Mr. McCLELLAND,] from Genesee, [Mr. BARTOW,] and from Washtenaw, [Mr. KINGSLEY,] and am not now disposed to again tread over the same ground, although the same objections have again and again been repeated. I design to confine myself to answering a new set of objections urged by the chief justice, and to an examination of the existing system which it is proposed to enlarge and perpetuate; and while I regret to detain the Convention upon this subject, the high importance that I, in common with my immediate constituency, attach to our action upon it, must furnish my only apology. Its known and conceded consequences to the people of the State, coupled with the fact that our action is destined to have an enduring effect upon our destiny as a commonwealth, not only seem to justify, but require, at the hands of every friend of good order in society, a full and candid exposition. I shall not stop now to answer objections or deal with arguments that could only have been offered in a spirit of captiousness, or for the purpose of arousing popular prejudices against the legal profession, or against what gentlemen have sneeringly called an *independent* judiciary system, or to gloss over and cover up the manifold defects of the

present cumbrous, expensive and inefficient system. I choose to leave that to others who have more taste for contrasting questions that have no real bearing upon the great question under consideration. I now ask the attention of gentlemen in all seriousness to a few plain questions: In what does the system proposed by our opponents differ from that existing at the organization of the present County Courts? Was not that system, when our population was far less than now, found entirely inadequate to the necessities and exigencies of the State? If the system has so signally failed in the early history of the State, after fifteen years of trial, how can we anticipate that it will now, and for fifteen or twenty years to come, answer our purposes, and that too with a trebled or quadrupled population and a corresponding increase of business? If causes have been found upon the calendar year after year, by reason of the inability of the judges to dispose of them, how do gentlemen expect to get prompt and rapid decisions in future, with the necessary and natural augmentation of business? Questions upon this subject might be multiplied to an almost indefinite extent, but it is useless.

These inquiries have been to some extent anticipated, and attempts made to palliate their force; and how, sir, has it been done? The Chief Justice tells us that it was want of judicial force that crushed the system and brought it into disrepute; and that the addition of three new circuits is to furnish a full remedy. Conceding the truth of the first proposition, it does not at all follow that the remedy will be found in the proposed increase of the number of judges. Why, sir, five judges could not do the business when our State was in infancy, and had but one-third or one-half of her present population or business, and the necessity for creating County Courts and other local tribunals to relieve the Circuits, was forced upon us; and now we are gravely told that after the abolition of our County Courts, eight judges are to be sufficient to carry on the system for the coming fifteen years; when, in the ordinary course of events, our population and business will have been increased ten-fold beyond what it was when crushed by its own weight. But another class of its advocates

tell us that it was the fault of the judges; that they were inefficient or incompetent. Conceding this, does it follow but that under the same system, the same kind of men may again find their way upon the bench?

The Chief Justice and others, however, disclaim that such was the fact; and I cordially join in the disclaimer. It was the fault of the system, and one that must of necessity ever exist under it. On one side the circuits come in conflict with and jostle the Supreme Court. On the other the Supreme Court plays the same antics with the circuits. It has been so, and it will continue to be so as long as you continue to neglect the principle of an appropriate division of duties of labor and responsibility. Any and every plan combining such gross anomalies must partake in a greater or less degree of these characteristic evils. These are some of the mischiefs that our system proposes to remedy. To withdraw the circuit judges from all business except that incident to the discharge of their duties at the circuits, would leave no refuge for excuses for the non-performance of those duties promptly and efficiently. We take from them the power to say to-day, "my duties require me to meet with the Supreme Court in some distant part of the State, and the business of the circuit must go undone until a more convenient season." We would also take from the judges of the Supreme Court the power to tell us that the duties of the circuits required their attention, and the Supreme Court must be dissolved, and for the time being, vanish into thin air, leaving important causes undisposed of; and I ask gentlemen if the attainment of this result is not most desirable. Would it not tend to promote dispatch, regularity and order, in what has hitherto been confused, irregular, and uncertain? To all, this result would seem almost a necessary and natural consequence of a separation of the courts; and I believe that with your proposed eight judges, twice the amount of judicial labor can be accomplished, and that in a more satisfactory manner, by having three of those judges disconnected with the circuits and sitting only in banc for the final adjudication of causes.

The Chief Justice, in his elaborate and able argument, has fallen into some serious errors, which deserve notice. He has seen

fit to reiterate many arguments which have been already triumphantly answered by other gentlemen who have addressed the Convention; and I would not now advert to them, but for the new vamping he has given them, and the fact that many members are in their seats who were absent when this subject was formerly under discussion. The President of the Convention [Mr. GOODWIN] and another gentleman from Wayne, [Mr. BACKUS,] had, as I supposed, completely vindicated our proposed system from all the objections, whether specious or real, that had been urged against it with even a tolerable show of plausibility. Again they are brought forward, decked in a new guise by the Chief Justice. He tells us we propose to withdraw the Supreme Court from the people; and to follow him in his fanciful imaginings, one would be led to believe we sought to create a species of judicial Juggernaut, shrouded in mystery and gloom—its dark recesses never to be visited by the light of day—all of fact must have been forgotten, and the imagination highly wrought upon, to have built such a superstructure upon such a foundation as is furnished by this judicial article.

Let me for one moment call his attention to the facts. By the terms of this article we propose five judicial circuits for the present, in the lower peninsula. We require the judges of the Supreme Court to hold two terms of that court in each circuit in each year; thus making it necessary for three judges to traverse the State from one extremity to the other, and bring the administration of the laws as near the people as practicable. Then comes the gentleman from Washtenaw, the land of judicial simplification and reform, [Mr. KINGSLEY,] and tells us that the people never attend the Supreme Court—they care nothing about it. Well, does the gentleman regard this as an evil? If so, how does he propose to remedy it? I know of no way except we incorporate some compulsory provision by which men shall be compelled to attend upon the sittings of our courts, whether they desire it or not. Is this what the gentleman wants? This is among a class of objections to our plan that I am frank to say must be regarded as unanswerable. They are so completely baseless, pointless and unmeaning, that

human intellect cannot controvert or answer them. But how does the Chief Justice, and the other gentlemen who embrace his views, propose to remedy the exclusiveness, and get rid of the aristocratic features of the Supreme Court? By the article they have reported as the basis of their action, *two or three* terms only are to be held in each year, at some one or two important points only, in the State. And that is the way that this tribunal is to be democratized, and its mysterious workings opened to the public gaze. But I have no patience to enlarge upon this branch of the subject. It savors too much of absurdity to need exposition, though gravely urged by gentlemen of high standing and acknowledged abilities. We heard from the Chief Justice, and I heard it with astonishment and regret, that the Supreme Court was comparatively of little importance—a matter of secondary consideration. Such statements, coming from the gentleman from Monroe, [Mr. McCLELLAND,] and others who gave their concurrence, I regarded as the speculations of the politician rather than the opinions of the lawyer or jurist; and little dreamed that the Chief Justice of our own or any other State of this Union, would be found standing sponsor to doctrines so entirely opposed to every principle of propriety or reason.

It involves an entire perversion of every rule upon which the affairs of mankind have been conducted since the organization of society. What, sir! are we to be told that the highest judicial tribunal in the land—that tribunal that gives constructions to our laws—that may annul the acts of the legislative department of the government—that may override the executive and legislative departments combined—that gives a final construction to the very constitution under which they hold their offices, and your laws are framed—that has in its keeping the dearest and most sacred rights of every citizen—that has a superintending control over all the other judicial tribunals and governmental departments of the State, is matter of little consequence; that it is of no great importance who are the men who compose this court, and wield this great yet necessary and salutary power?

Sir, I had supposed the fact to be other-

wise, and been taught to regard the court of last resort, both under the federal constitution and in the various States, as the anchor to which, in the hour of danger and of peril, we could look with most confidence for security and safety—as the last barrier that we could successfully interpose against the oppressions of individuals, the exactions of power, or the more to be dreaded dangers of confusion and anarchy.

If these gentlemen are correct, you require a greater amount of political ability and statesmanship to discharge the duties of a supervisor in a township, than to administer the chief executive department of your government—greater legal acquirements and more thorough judicial training to act as a justice of the peace, than to discharge the high functions of a judge of your Supreme Court. Such, sir, and such only, is the practical effect of the argument, when carried out in principle and detail.

We have also had again paraded before us, as the very model of excellence, the federal judiciary system. Now, sir, admitting that it may be best, as applied to the judicial affairs of the Union, does it follow at all that it would be adapted to this or any other of the States? And if this system is so completely perfect in all its parts—so admirably adapted to all conditions of society—to every state and community—why not take it as a whole? Why not *appoint* your judges by the executive for life or during good behavior? Why not require your Supreme Court to sit only once in each year, and then at the seat of government of the State? Why not require the judges to go but once in each year into each county and hold the circuit? Why not have elected in each county a judge to set with him and give him power to hold a court in his absence? If gentlemen are serious in wanting to engraft this system upon our State constitution, let them avow it in plain terms; if not, let us hear no more rhapsodies upon its beauties and perfections, and let it no longer be held up to us as that model of excellence which we should copy. I, sir, believe in the election of judges by the people, so that that class of officials, as well as others, shall have a direct responsibility to the people for the manner they perform their duties. I also believe in their holding frequent terms of their courts at such places

as will best commodore the great mass of our citizens who have interests depending upon their action.

Another objection is urged against our system by our opponents, and alleged by them to be remedied by the article they have reported. It is the election of judges of the Supreme Court by the people of the State at large; and even here the Chief Justice has followed in the train of argument of those who urged that this mode of electing involved the danger of selecting incompetent and bad men. If such be really the fact, it should be avoided, and I propose to consider the proposed remedy in connection with the allegation. The remedy consists in electing the judges of this court in small districts, composed of one-eighth, tenth or twentieth part of the State, so that the electors may be enabled to know personally the man for whom they are casting their ballots. Specious argument indeed! “Diminish the circle from which you are to select, and you will get better and abler men.” I wonder that this sublime discovery in the science of government has not been made at an earlier day. It would have saved vast trouble and expense in the selection of the various officers of government.

The principle, if good and a true one, should have a general and universal application; and it is sometimes a good way of testing the wisdom of a theory, by carrying it to its ultimatum; and I propose that test here, that its unrivalled advantages may be fully seen and justly appreciated. How are all the people to know personally the candidate for whom they vote, as President of the United States, or any other official selected from the nation or from the State at large? The electors cannot know him, and consequently bad men may and probably will be elected. Now, these gentlemen should propose that the people of Delaware or Rhode Island, where every elector is supposed to know every citizen of the State personally, should designate the Chief Magistrate of the nation, and they should be required to take him from one or the other of their own States. The people of some townships of the State should designate the Governor for the State. The inhabitants of some school districts should pick up your members of Congress. Now, these gentlemen have

not sufficiently refined upon their plan; they should get the very excellencies of their system, by requiring the people of some small or obscure township to furnish from among them the judges of the Supreme Court. I had supposed that as you increased the numbers from among whom a choice was to be made, just in that ratio you increased the means for finding the requisite talents for any station. I had also supposed that those who administered the laws for the whole State, and whose business it was to induce uniformity in decisions throughout the whole land, and who had in keeping the interests of the whole people, and who should be removed from all local or sectional prejudices or feelings, and who are responsible to the whole people, should be chosen by the entire body of electors of the State. And I am fully convinced this plan of electing your judges of your court of last resort in small districts, is one of the most serious objections to your proposed system. There follows two classes of objections diametrically opposite; each, however, assailing the separate system. One set of opposers tell us that the judges of the Supreme Court will have nothing to do—that their offices will be sinecures. Another set, about equal in numbers and experience, and with about an equal show of argument and reason, assure us that so much business will be forced upon that court that three judges cannot by possibility do it, and we are pointed to Indiana and her overloaded docket as evidence. I propose to leave these two extremes to battle with and balance each other, thinking it not unlikely that the truth lies between the two, and if so, the whole matter is properly reconciled.

I come now to another branch of the inquiry, and by far the most important, as applied to the merits and defects of the existing system—the system that is proposed to be enlarged and continued by incorporating it into the constitution and making it a permanent system in our machinery of government. We are told, as already suggested, we can get better judges; that the plan tends to educate and fit them for judges. This conclusion is based upon the assumption that we are, in the first instance, to elect men wholly unfit for any stations, as judges of the court of last

resort. I believe, sir, if the people are left free to select from the State at large, they will secure the very best men—men of first rate acquirements and thoroughly educated to the profession of the law. Such has been the case in other States; and there is no good reason to suppose ours would furnish an exception. But it is urged by the petitioners that, under the existing system, there is a want of proper confidence in our judicial decisions; that the very organization of the court renders it at least possible that improper influences may control the decisions of the Supreme Court. Whether these assumptions are well or ill founded, is hardly material. The impression has gone abroad, and exists, and it will continue to so long as you perpetuate the system that gave rise to it; and it is well known that the administration of the law should not only be pure in fact, but, as far as practicable, placed above and beyond suspicion. Every thing that tends to weaken public confidence in the integrity and sanctity of legal decisions, is of most mischievous tendency, and no one can disguise but that our present system is subject to this objection.

You have upon the bench of the Supreme Court four or a dozen judges; there are pending in that tribunal causes that have been passed upon by each of those judges at the circuits, which the parties are seeking to have reversed upon the ground of error in the decision of those judges; the affirmation of those judgments, however just, cannot induce the satisfaction, and is not free from a class of objections that could have no application to a separate and distinct court. The present judges of our Supreme Court are men of undoubted ability and integrity; and conceding that in the performance of their duties they will give as general satisfaction as any other equal number that could be found in the State, they are, nevertheless, a portion of the human race, and subject to all the influences, impulses, passions or prejudices common to mankind; and it may well be doubted whether it is in the nature of man to be placed in the position they now hold, and not be at times operated upon in their judgments and decisions by some of the improper influences that have been referred to. There may be judges under whose administration the evil

may become intolerable; and it is against such a possibility that we should now place the most effectual guards. But we are told by the Chief Justice, in defence of the system, and as an argument against the one we propose, that the New England States, under analogous judicial organization, have secured the most prompt, efficient and satisfactory administration of the laws; and also that the decisions of the old Supreme Court in New York rank higher in point of ability than those made after the creation of a separate court.

Now, sir, as applied to the first allegation, before it can fairly be recognized as proving anything, our opponents should show that the circumstances and condition, the wants and exigencies of our State, are analogous to theirs. Every gentleman here, however, well knows that such is far from being the fact; and that, on the contrary, some of the worst evils that have been entailed upon our State have resulted from borrowing from other States their statutory provisions; and without considering their want of adaptation to our peculiar circumstances, making them rules for our guidance and governance. While lessons of wisdom may properly be drawn from their experience, we should not overlook the experience and experimenting for the past fifteen years in our own State. The results of that experience are around us, and were among the chief causes that induced the assembling of this Convention. That experience has demonstrated that it was worse than folly to attempt, for the coming fifteen or twenty years, a continuance of the present system. And, sir, it may be most truly affirmed that in no department of this government were such entire and radical changes so loudly called for, and so universally demanded by the people, as in our judiciary system. Such, at least, I know to be the fact, as applied to my immediate constituents; and I fully believe it to have been general throughout the State. And now, when change and reformation are to be had everywhere else, in this most important matter there is to be none, unless it be such as I firmly believe will increase existing evils and induce more universal dissatisfaction.

Now, sir, one word as to the last reason adduced by the Chief Justice. He tells us that abler and better decisions by the Su-

preme Court is the natural result of this system, and that the proof is furnished in the judicial history of the State of New York. To me it appears a sufficient answer to point to the books of reports of that State, and call to mind the enormous multiplication of causes in her Supreme Court, and the consequent increase of business and labor that occurred soon after the change of their system. That increase was the result not only of the natural increase of population, of wealth, and of commerce, but of other and more important, unnatural, or at least unusual, causes. These combined causes tended to pour into the judicial tribunals of that and every other State in the Union, an amount of business unprecedented in our former history, and that rendered the judicial force ordinarily required wholly inadequate to the exigencies of the crisis.

The wild speculations in every department of business, the over-trading and over-doing in every pursuit, that occurred between the years 1830 and '40, and the terrible revulsions in the business and commercial world that was consequent upon this era of madness and folly, induced an amount of business to find its way into the Supreme Court of that State, that rendered lengthened and laborious investigation wholly impracticable. Cases upon which, under an ordinary state of things, the labor of months had been bestowed, were crowded into as many days or hours. The consequences were inevitable—hasty and crude decisions. But another fact should not be forgotten; that for the twenty years prior to the formation of a separate Supreme Court, several of the most laborious and able men that ever adorned the judicial annals of this country had held seats upon the bench of her courts; they were not educated after their induction into office; they were profound lawyers and accomplished jurists when placed there; and their earliest decisions compare favorably with any made by them in after life. Such being the facts, I am not willing to concede that anything unfavorable to our system is fairly deducible from them; but, sir, were it otherwise, I have yet to learn that any State in this Union or any country on the globe has ever attempted such a system, as applied to its principles and details, as is now proposed by our oppo-

nents. So far as presented to us, it contemplates eight circuit judges, to be chosen by the electors of their respective circuits. Four of them are to constitute a Supreme Court; three can make a final and binding decision, less than a majority of what is in fact the supreme bench. To me this is an anomaly; but, your supreme bench may change without even the election of new sets of judges. What is to-day the Court may not be to-morrow; three other of these circuit judges may be on the bench, and another decision made reversing that of yesterday. I can see neither stability, uniformity, certainty nor safety in it. I can see, however, standing out in bold relief, every evil and mischief that has cursed the people of Michigan since the organization of our State government. I can also see in the prospective other evils almost as great, added to those that have already existed.

Among the most important considerations that we should seek to accomplish, is that of expediting the final decision of causes. No one thing connected with the administration of our laws has been the subject of more serious and universal complaint than the eternizing of causes in our Circuit and Supreme Courts. Middle aged men, who become involved in litigation in our higher judicial tribunals, either at law or in equity, must have a lifetime extended beyond the ordinary allotment, or their suits would be left a legacy to their children. This was one of the mischiefs that we confidently believe would, to a great extent, be remedied by our proposed system. By the division of duties as already suggested, you will leave no pretext or excuse for not promptly passing upon causes as they arise; and holding two terms of the Supreme Court annually, in each circuit, will place it almost beyond possibility that any cause can be continued without the assent of parties, to exceed one year. The opposite plan, instead of furnishing a corrective, is destined to be worse than the present one. And I fear that hereafter, instead of causes being disposed of in one generation, they will become permanent heir-looms in the families of litigants; and should they ever have an end, it will furnish an interesting subject of research to the legal antiquary to trace back through the mists of ages and ascertain at what era

in the history of the world they had their beginning. Another consideration of some importance seems to have been wholly overlooked. By adopting the circuit system, you interpose an effectual barrier between the bench and some of the best legal talents of the State. There are men in our State, and ever will be, whose talents and learning would adorn any judicial position; who have not those physical energies, and that hardy and robust constitution that would enable them to endure the hardships incident to the duties of circuit judges. Every member of the legal profession well knows that to travel at all seasons of the year, on foot or horseback, the hundreds of miles of bad roads that have to be traversed in the newer portions of the State, and then attend to the arduous labors of holding a protracted term of the Circuit Court, requires physical strength and energy seldom found in men much past middle age.

But I have trespassed upon the time of the Convention far longer than I had designed, and will detain you but a few moments, while I advert to the charge that is constantly rung in our ears, that our system will be an expensive one. I regard any bad system an expensive one, and a good one as cheap at almost any rate; and above all things else, a judiciary system should not be squared by the dollars and cents that its administration may cost. But as the matter has been so often adverted to, let us examine as to the fact a moment.

We propose 3 judges of the Supreme Court, say at \$1,500 each, \$4,500

5 judges of Circuit Courts, at same, 7,500

Making for pay of judges annually, \$12,000

Now, sir, what are the people of the State now paying for salaries to judicial officers?

4 judges of Supreme Court, at \$1,500 each, \$6,000

1 Chief Justice, 1,600

30 county judges, (as estimated, per annum,) 13,400

Making annually the sum of \$21,000

So that our extravagant system will operate to reduce, in the single item of the

pay of judges, the taxation of the State \$9,000 per annum. Add to this the enormous expenses incurred in the various counties for contingent expenses, extra compensation to sheriffs, constables, and other incidental charges, and I am confident that the reduction will be equal to one half.

This saving would double the number of the judges we propose to elect for the circuits; and no one pretends but that six or eight judges, disconnected with other duties, could for the next twenty years do promptly the judicial business of the State. And, sir, by our system we leave to the people and the Legislature full power over the subject. Changes in or increase of the circuits, have no effect on your Supreme Court.

Under the other system you increase the number of circuits and of judges to twelve or fifteen; (and I confidently predict it will ere long be necessary;) and you have presented the anomaly of a supreme bench composed, in fact, of as many judges; yet one-fourth of the number, for all practical purposes, compose that tribunal, and give law to the State—make decisions that bind the other three-fourths of their colleagues at the circuits, in common with all other inferior jurisdictions in the State. I ask gentlemen to pause and reflect before they shall impose such an incongruous system upon the people of Michigan for the coming fifteen or twenty years. It is true, you give a power to change after six or eight years, thus practically conceding that by that time the judicial organization you are now making will have become intolerable. I believe it will be so before half that number of years has gone by. All its better features we have tried already, and even these have been universally condemned. What, then, can you expect from their continuance, overloaded with still more obnoxious provisions than have as yet obtained in our own or any other State?

I will not say, as others have said, that I am confident the constitution will be rejected by the people if we adopt this system. While I believe it ought to be rejected, yet I am convinced that the desire for change is so universal, almost any constitution we present will be gladly tried as a hoped for remedy for existing and prospec-

tive evils. This fact should but induce more guarded and careful action upon the part of this Convention. Above all things let us place our judiciary upon high and firm ground, that it may in all coming time be adequate to our wants, and at the same time command the confidence and respect of the people of the State. Our proposed system, I confidently believe, will accomplish both these results, and I am equally well convinced the other will fail to accomplish either.

[Mr. Goodwin then addressed the Convention in favor of the independent system, and was followed by Mr. McCLELLAND, in reply, in favor of the circuit system.]

Mr. WILLIAMS had not intended to say anything on this subject, but as other gentlemen had been called on besides those belonging to the legal profession, he would respond to the call. It is true that the gentleman from Monroe [Mr. McCLELLAND] insisted that he was a lawyer. Still, he had been exclusively, for fifteen years, engaged in a multiplicity of business, as the gentleman from Monroe was well aware. He knew not the motives of the gentleman, unless it was to drag him into the profession in order to give it respectability and character in the Convention. However, what little he had to say was drawn from his experience and observation as a business man.

When we first came together, he felt partial to the Circuit Court system. But from day to day his views had changed, and he was now in favor of such a system in its principal features as the committee have reported. In the first place, it cannot be concealed that this Convention was called together on account of the deep, pervading dissatisfaction with either the construction or administration of all parts of the government—legislative, executive and judicial. The legislative department has been changed and modified, radically. Shall we revamp the old judiciary system? With that system, including the County Courts, the people were thoroughly dissatisfied. We ought, therefore, to reorganize all its machinery in such a manner as to give it efficiency, responsibility, character, and more than all, the popular confidence.

He was opposed to the system, as far as it was intelligible, of the gentleman from

Monroe. How does he propose to detail those of the circuit judges who are to sit as a Supreme Court? How is the latter to be grafted—how dove-tailed to the other? Is it to be decided by the judges themselves, or by the Legislature? Either way is open to weighty objections. The detail of the system is not forshadowed. The plan is not matured. We know not whether it is proposed to make it complicated or simple in its details.

On the plan of the committee we can construct a system, strong, efficient, simple and adequate at once to meet the growing wants and the expectations of the whole State. It seems to be conceded on all hands that the County Courts are to be superceded. If so, here will be a large amount of business thrown on the Circuit Court. Now, if we make the circuits so small that in the counties having 10,000 people or more the terms can be held quarterly, we at once supply the deficiency created by the annihilation of the County Courts. But if the circuit judges are encumbered with all the duties of the Courts of Chancery and County Courts besides, and are obliged to sit in banc as a Court of Appeals, he believed the court would be overloaded with business, and incompetent to discharge the duties incumbent upon it.

He wanted a court of responsibility. He wanted to leave no chance for excuse. Rightly or wrongfully, it is said of the present court, that a court is adjourned in our county in order that the judge may hasten to sit in the court in banc. They hasten to leave their duties as a Supreme Court, in order to hasten around their circuit to fulfill engagements. He wanted no such system. Let the circuit judges be freed from all duties but holding regularly their terms for trials of fact. Let no contingency relieve them from holding every appointment. In case of sickness the judge of another circuit to hold the court, and we have here responsibility. As regards the Supreme Court, having no duties on the circuit, they can have no excuses. They can decide appeals promptly and readily. Not only so, the judges of the upper court knowing that at the next election they are sure to be superceded by the judges of the circuit, if negligent or dilatory, will always be ready to discharge all their ob-

ligations. Both courts therefore will be responsible, not only on these accounts, but being subjected to the Argus eyes of the whole people, and compelled to pass the ordeal of a popular election, and knowing and feeling that those only can be elected who prove the most capable, they are sure to be faithful.

Objections are made on the score of multiplicity of judges and the cost. It may take four supreme judges, and five or seven on the circuits, and the whole swarm of county judges are dispensed with. On the other plan, unless we have a large number of circuits, we must have a kind of County Court, or be deprived of courts except once a year, or at long intervals. Even if the salaries of the Supreme Court are entirely added to the cost of the circuit system, still the \$11,400 which, according to the report of the Secretary of State, was paid last year as salaries to county judges, are entirely saved—a sum far more than adequate to pay the salaries of the supreme judges.

Objections are made to the plan of the committee, because it is not democratic. The judges are elected by the people every six years under either system—held to a rigid accountability. On the periodical return of the election, no man will stand the rigid scrutiny unless he is faithful, industrious, learned and enlightened. One system is as democratic as the other, because in both the judges are held accountable to their creators on the recurrence of the same period of time. He had listened to the speech of the gentleman from Kalamazoo, [Mr. HASCALL.] It was ingenious, honest and able. But he confessed he could not appreciate the force of the argument that an institution was not democratic, which was renovated by the popular will. He believed that in any system we might adopt, the mere fact that the judges were elective would give them the public confidence to a degree which they never could enjoy if they were the mere creatures of Executive appointment. At this day, through the west, no judiciary can enjoy the public confidence unless elective—no judiciary so elective can forfeit it, unless by neglect, or want of integrity or other qualifications.

A great deal has been said about the necessity of keeping a man on the circuit

in order to prevent his growing rusty, that he may understand the business relations and feelings of men. He thought very little of the argument. Are our dearest rights and privileges to be tried before a judge who is just learning his duties? Is he to be so incompetent that he is to experiment on us, in order to fit himself to discriminate and judge rightly? Is he to learn his trade like a bungling tailor who spoils the coat and wastes the cloth of his customers? Put a tyro on the circuit and he will learn, but it is a dear way to educate a judge. No, if we choose men of mature age, men who for a score of years have devoted themselves to those investigations which are necessary; men of that keen discrimination, which is needed to weigh nice questions of fact and law and evidence, how much will they lose during six years in the performance of the highest functions that man can bestow on man, with all their reputation as men and judges at stake. When a man is elevated to such a position, it is too late to make himself familiar with human life or human duty; with business relations of men, or their habits of thought and feeling. Besides you will find the practical operations of the elections to be this: The Supreme Court will every time be renovated by elevating from the circuit those most distinguished for honor, integrity, keenness of discrimination and that extensive knowledge of men and things, in which it is said they must be schooled. If your courts are to be schools, even that object is as well effected one way as the other. He was much more afraid of an ignorant and incompetent supreme tribunal in the plan of the gentleman from Monroe. The time would soon come when we must have a dozen circuits. If the twelve were to be chosen by general ticket, it is inevitable that the detailed four will be sometimes mere political hacks, elected by the log-rolling plan of a caucus; and if elected in districts, there will often be young and incompetent men chosen. In either case, the court of last resort is a creature of chance, in which we could not always repose confidence. The case of Judge Blackford of Indiana, taken above, puts to flight all their arguments that a man must rust out by sitting as a judge in banc. Here is a man who has been 33 years

performing the duties in chambers, and he is held all over the Union in the highest estimation, as one of the most accomplished jurists of the nation. Fit when he took the position, experience does not seem to have rendered him less fit.

Here he would observe that the Chief Justice had alluded to certain discontents in Indiana; certain clamors perhaps relative to the great amount of unfinished business. He lived himself on the borders of Indiana, and as far as his knowledge extended, the people of that State viewed their Supreme Court with pride and satisfaction. They were proud of their supreme judges—proud of their reports. If there was discontent, he believed it arose from the fact that the State had outgrown the ability of the present judicial force, and not from any fault of the system itself. There may be a feeling that at present the provision of judges is inadequate to the task imposed on them; he doubted much whether there was much hostility to the system.

There has been a great deal of quotation, a great deal of theorizing, which had produced very little impression on his mind. He cared very much less about the opinions of any man, even Chief Justice Spencer, than he did for a practical consideration for which we were bound to provide. We must meet the facts of our own case, and provide for them; and the only rules or advice we are bound to follow are such as will provide for ourselves the most responsible, prompt, learned and efficient administration of justice. Among judicial tribunals, "that which is best administered, is best." That which proves the best on trial, also, will receive the popular approbation. No system will be popular because its theory seems most plausible. Bring justice home promptly to every man's door, and the system under which it is dispensed must be popular.

All these quotations of authority he regarded as futile on another account. Courts will be the exponent and representative of the people themselves. A corrupt and ignorant people will have corrupt and ignorant courts; an enlightened people enlightened courts. Just so far as the State is distinguished for intelligence, integrity, thrift, honesty, and a regard for law and order, just so far will your courts be distinguished by the same characteristics. The

courts will not advance far before your civilization. They are certain to keep pace, but will rarely outstrip you. Both alike are subject to the same laws of progress and decay; and whatever system or theory you adopt, you may depend that practically it will be a type of the people themselves.

Mr. WHIPPLE rose to explain. The gentleman he had conversed with said he did not know that the people of Indiana would change their system; but the court had over six hundred cases standing on their docket. A system that can produce such a state of things must be wrong. Another thing he would mention. The gentleman from Oakland had attributed to him a word he had never used. He did not make use of the word "faisheod." He had said that he thought they should have known the facts. There were names of gentlemen on that paper who should have known the facts.

Mr. N. PIERCE supposed, when legal gentlemen had argued the question, others would come in as jurors. He had endeavored to learn the nature of the subject, and was ready to vote. All the arguments advanced had convinced him that it was better to have a Circuit Court with supreme authority, than to have a separate Supreme Court. The more he heard on the subject, the more he was convinced the Circuit Court system was preferable to the other. The arguments which had convinced the gentleman from St. Joseph [Mr. WILLIAMS] on one side, had convinced him on the other. He had heard nothing amiss of the judges. Law was a labyrinth he never wished to get into. If a man was evil enough disposed not to pay, he should never expect to get it by law. They have been arraigned by the people, and they should come out now and say whether they have been to blame or not.

A gentleman had said that a good judiciary was not dear, and a bad one was dear at any price; but if I (said Mr. P.) can get one as good and cheaper than another, I shall prefer it. I do not think, with the gentleman from St. Joseph, that the people want a change; they want to regulate it so that when a man gets into court he may have some chance of getting out again. Gentlemen have said a great deal in favor of the Supreme Court, but I

believe they will have to talk a week longer about it before they can make it go.

Mr. MOORE said—Mr. President: I do not know that I can throw much light upon this question. I supposed the legal gentlemen would. I supposed they would point out the defects in the present system. I am something like the animal this morning spoken of, between the two stacks of hay—don't know which to choose. Two great and grand systems of judiciary are proposed. One with an independent supreme bench; the other with supreme judges doing circuit duties. The latter is pretty much our old system, before the County Courts were established. I don't hardly see that the County Courts are going to have a decent burial. What was the reason that County Courts were established in the first place. Because the business was not done up in the circuits—suits accumulated on the calendar and were passed by from time to time, and from court to court; the profession of course growing fat by it; putting an additional fee into their pockets every time a suit was passed by, until at length the people became dissatisfied with it, and the demand for a change in the system was imperative, and County Courts were established. The profession were determined to kill them. They scoffed at them—literally scouted them down. The whole bar let in their decision upon them, and have fairly bluffed the system out of existence. Every thing was said and is said against them that can be; and now, even on this floor, County Courts are spoken of as among the things that were, and as though, by common consent, they would die out, and that too without giving a reason for it. The profession themselves must take the responsibility of this change, should it be made. They will fix it up for themselves, and they must meet the consequences of it. A splendid judiciary is the glory of the bar, and they may have it yet perhaps. They are like all other men. Human nature is the same among all classes, and in every country. Perhaps they are doing only as all others would, in like circumstances. I say nothing about them. Some of them are among my best friends. But, alter this system again, and change it back to the old one, and you make an expense and delay again in suits, the people will not bear. The people want

justice administered in a short, plain, and simple way. They want a system they can understand, and one where suits can be tried at any time—where parties can meet and not be obliged to adjourn with their witnesses from time to time, for a new trial; making more costs and paying an additional fee every time to their lawyer. The people want a judiciary system accessible at all times, and under all circumstances ready and cheap. No other will suit the people, I can assure gentlemen.

If the business is no more than done up now under the present system, with a court in every county at all times on hand, how can it be when the County Courts are abolished? I verily believe if the present system was the settled policy of the country, we would have good judges. Such judges as would do credit to the State; justice secured, and the people satisfied. Where the counties have good judges the system works well, and parties and people are content with it. The business is done up, the docket kept clear, and all understand and have their rights without delay. Keep then the County Courts, and establish three supreme judges to appeal to, to settle the law. If you want to send the supreme judges into the circuits, as now, I have no objections. But I have objections to fixing up a burdensome and expensive system, that will cost the State thousands of dollars, for the honor and glory of the profession. Some ten or twelve judges at high salaries, circuiting through the State, seen once in three or six months, part of them never seen perhaps, separated from the rest as in a cloister, nothing to do but expound the law and grow fat—I tell you it will not do. It will neither do up the business, nor satisfy the people. They want nothing more than the County Court system with three supreme judges, paid by the State, and the county judges paid by the county, and the salary fixed by the supervisors—the county judge to be judge of probate also—the fees of the probate office put into the county treasury, and the county would have little to pay besides for their judges. One judge can hold both offices, do all the business, and be well paid for it, and cost the counties but a trifle.

Then, Mr. Chairman, when the reform is brought about in simplifying proceedings

in court—the distinction abolished between law and chancery suits—the pleadings stripped of the technicalities which have so long shrouded the law in mystery, and common sense made to take its place—then, I say, we will have no need of either of the splendid plans proposed by the profession. The gentleman from Monroe [Mr. McCLELLAND] has promised to aid in this reform; and I hope to find the bar coming up to this work en masse. This will be a reform worth something. But, Mr. Chairman, I did hope, and I do still expect to hear something said by the profession about the County Court system. I want its history. I want to know why it don't answer the purpose. We were told by the gentleman from Monroe, [Mr. McCLELLAND,] that one county had a county judge that was fit to sit on the supreme bench. Does not the system do well in that county? Every other change proposed in the constitution has been overhauled from beginning to end. We have had the sessions of the Legislature over and over again; annual, biennial and triennial—the present system of taxation, and all its changes—the supervisor system with all its duties and improvements—the State officers with their powers and responsibilities—single districts and double districts—elective franchise, and all the other reforms that could be invented; but County Courts have slept the sleep of death almost, and no friend nor enemy scarcely giving cause to approve or condemn them. I want to hear something about the present judiciary system. I want to hear something about the County Courts.

On motion of Mr. BUSH, the committee rose, reported progress, asked and obtained leave to sit again.

On motion of Mr. J. BARTOW,

Resolved, That the Secretary of this Convention be and he is hereby required to procure a sufficient quantity of parchment, upon which to enroll the new constitution.

On motion of Mr. J. D. PIERCE, the Convention adjourned.

FRIDAY, (46th day,) August 2.

The Convention met pursuant to adjournment, and was called to order by the President.

Prayer by the Rev. Mr. MERRILL.

The PRESIDENT announced Messrs. MASON, WILLIAMS and SOULE a committee in conformity with the resolution adopted on Wednesday last, relative to the eulogy delivered by the Hon. H. T. BACKUS.

MOTIONS AND RESOLUTIONS.

Mr. EASTMAN moved to reconsider the vote by which the article entitled "County Officers and County Government" was passed.

The motion was laid upon the table.

Mr. WOODMAN called up his resolution relative to the absence of Mr. P. R. ADAMS, offered on the 23d ult.; when,

On motion of Mr. MOORE, the resolution was indefinitely postponed.

On motion of Mr. HANSCOM, the Convention proceeded to consider, in committee of the whole, the article entitled "Judicial Department," Mr. Cook in the chair.

The committee resumed the consideration of the substitute for section 2; and a division of the question being called for, section 2 was stricken out.

Mr. HANSCOM offered the following as a substitute for the substitute:

"The Supreme Court shall consist of four judges, three of whom shall be necessary to form a quorum; and the concurrence of three shall be necessary to every final decision. The final decision of the judges shall be in writing, signed by them; and a judge dissenting from a decision shall give his reasons for such dissent in writing, under his signature. And the Legislature may, if they shall deem it expedient, require each of the judges of the Supreme Court to hold one of the terms of the Circuit Court in each year in any one of the counties of the State in which more than two terms are annually held."

Mr. McCLELLAND—At present the question appears much in the same form as heretofore. I presume the gentleman [Mr. HANSCOM] is very anxious to take the vote this morning. Some of our men have left town, and some of his intend leaving; so that I am not disposed to prevent the vote being taken.

The gentleman from St. Joseph and other gentlemen asked the Convention to determinately fix the details of the County Court, or something of that sort. I expressed myself heretofore upon that subject; but I suppose, from the remarks

which the gentleman made, I was misunderstood. I say again that, so far as I am concerned, and the most of those who act with me, we would be for adopting the provision proposed through the columns of the *Marshall Expounder*. I will read it, to show what I intend; but it would be entirely a matter for the committee to decide; and as there are more men on it in favor of the independent court system, they would sift this matter thoroughly. Yet I have so much confidence in the honor and integrity of that committee, that I would submit it to them, and them alone.

[Mr. McC. here read an extract from a newspaper, a copy of which the reporter could not procure, together with a substitute offered by him on a previous day.]

Mr. BAGG—We know what the gentleman proposes—we are to have the County Court in its most odious form, thereby breaking down the independent system. I wish the gentleman had told us yesterday what he intended to do. I trust, that as the gentleman has shown his hand, some member will call the yeas and nays, and move a reconsideration of the last vote, for I know that there are men in this committee who will not go this system. And let me tell the gentleman, that when the Convention is full, we can beat him on the independent system. We have the strength when we are all here in Convention. I hope some gentleman will move a reconsideration, and let us hang this matter up to-day and pass over to our other business; because I am satisfied that if we go on with this business now, we will have to undo what we would do here now. I do not doubt that we would beat them even now, if we sent for the members at present in the village. I throw these remarks out now, because I do not wish to spend time in perfecting an article that never can be passed in full Convention.

Mr. McCLELLAND—My friend has taken alarm without any real cause. Because I have taken a position, it is no reason why the gentleman or the committee should adopt it. I have not made a proposition of the kind adverted to by the gentleman, [Mr. BAGG;] I only read an extract from a newspaper, bearing upon this subject, which I thought shadowed forth a good plan. I said I was willing to entrust the details to the judiciary commit-

tee. The gentleman is one of that committee; and notwithstanding that he has spoken against my plan several times, yet I am willing to submit it to him, as a member of that committee. I am not captious or tenacious about it by any means. There are very many members, a large majority, I may say, of that committee in favor of the independent judiciary system; yet I am quite willing to submit the subject to their investigation. I did not say that this committee must adopt what I have suggested, nor do I know that the gentlemen who have co-operated with me here, are in favor of it at all. I do not know any such thing, for I have not consulted with them upon the subject. Nor have I done anything out of doors in relation to this system; I have only taken action here in this body. I did not know how this committee stood upon the subject under consideration. I do not know who are going for or against it, except perhaps about twelve members.

Mr. HANSCOM (interposing)—I would suggest to the gentleman this course, viz: I will withdraw my amendment, and move that the committee rise, report back and take a direct vote by yeas and nays on concurring in your amendment.

Mr. McCLELLAND—There are some four or five gentlemen absent who are on our side of the question—I do not know it positively, however—nor am I quite satisfied that those with whom I act in this matter will entirely acquiesce in adopting this course. However, I have no objection at all to pursue the course suggested by the gentleman from Oakland, [Mr. HANSCOM,] if no other gentlemen in the committee have any objection; that is, to rise, report back to the Convention and let the house take a vote upon agreeing; the amendment can then come up.

On motion of Mr. HANSCOM, the committee then rose, reported the article with an amendment, and asked the concurrence of the Convention therein.

The question being upon concurring in the amendment, viz: striking out section two of the article, the yeas and nays were ordered on the same.

On motion of Mr. McCLELLAND, a call of the Convention was ordered, and Messrs. CRARY, DANFORTH, GRAHAM and PREVOST were found absent without leave.

On motion, Messrs. CRARY and DANFORTH had leave of absence for the day.

On motion of Mr. COOK, the Sergeant-at-Arms was dispatched to secure the attendance of Messrs. GRAHAM and PREVOST; but those delegates soon appearing,

On motion of Mr. McCLELLAND, all further proceedings under the call were dispensed with.

The PRESIDENT—The question is upon concurring with the committee of the whole in the amendment reported, striking out section two.

Mr. McCLELLAND—And inserting.

The PRESIDENT—The report of the committee was, asking concurrence in the amendment reported.

Mr. McCLELLAND—No sir; the understanding was that we were to come into Convention and take a test question upon striking out and inserting.

The PRESIDENT—The Chair understood the chairman of the committee of the whole to report the question as being on striking out.

Mr. McCLELLAND—I ask the gentleman from Oakland [Mr. HANSCOM] as a man of honor, was not what I have said the proposition agreed to?

Mr. HANSCOM—There is no use in arguing about it—it is alike to me which way we take the vote.

Mr. McCLELLAND—Did not the gentleman propose to me to go into Convention to take a vote upon striking—

Mr. HANSCOM—I did.

Mr. McCLELLAND—I appeal to every member of this Convention if the gentleman did not propose to come into Convention and take a vote upon striking out and inserting? I do not want to make any noise about it, for I am the last man under God's heaven who will impose upon another, or be imposed upon.

Mr. HANSCOM—There is no use in the gentleman getting into a passion. It is all the same thing in what manner we take the vote.

Mr. McCLELLAND—Did not the gentleman agree to go into Convention and take the vote in the manner in which I have said?

Mr. HANSCOM—I proposed to withdraw my amendment, and have a test vote taken in Convention on the question reported.

Mr. McCLELLAND—I will ask the general consent of the Convention to permit the vote to be taken in the way arranged between the gentleman and myself. There is something wrong, somewhere.

Mr. HANSCOM—For one, I have no objection. Let the vote be taken upon striking out and concurring.

Mr. KINGSLEY—I respect both gentlemen very much, but I have no idea that they have the right to make a contract to bind this Convention. I do not consider myself bound by any contract which they may have made. I want to know what has been done in committee of the whole; and whatever they have done, satisfies me.

Mr. McCLELLAND—In reply to the gentleman, I will merely say that it is a customary thing to make such an arrangement as was made. I do not pretend to bind any one. I said in committee I was willing to have a direct vote taken, if no gentleman objected. The gentleman did not rise then and object to it. Of course, when an arrangement is made by one party in committee, and another agrees to it, and no one objects, it is too late to say what the gentleman has said, after coming into Convention.

Mr. HANSCOM—Is it not competent for a gentleman to call for a division of the question?

Mr. McCLELLAND—It is. But in parliamentary matters, as well as in every thing else, there is such a thing as good faith. It is a matter of indifference to me what course is pursued.

Mr. MASON—I ask the gentleman from Monroe [Mr. McCLELLAND] if the understanding had been as he stated, would it not still be competent for any one to call for a division of the question?

Mr. McCLELLAND—Certainly, it would be; but I have ever heard that there was such a thing as “honor among thieves.”

Mr. MASON—For my part I did not understand the arrangement as indicated.

Mr. McCLELLAND—Could the committee have risen without common consent, and reported the article? Suppose a motion was made that the committee rise, and I got up and said I wanted to amend that article; surely the gentleman must see that it could not rise without unanimous consent.

Mr. MASON—Well, I suppose it was granted at the time.

Mr. McCLELLAND—Then observe good faith, or move to go back into committee.

Mr. HANSCOM—I for one do not wish any one to assume that there was any unfairness in this matter. I would consent to take the question on striking out and inserting, to gratify any gentleman's whims and caprices.

Mr. BUTTERFIELD—I understood the gentleman from Monroe [Mr. McCLELLAND] to come into the arrangement in the manner he indicated.

Mr. KINGSLEY—I have no objection to take the vote upon striking out and inserting.

Mr. BRITAIN—I rise mainly to say that, if the question be not taken in the manner suggested, the Convention should go back to the position in which it was when the gentleman from Monroe had the floor, in order that we may arrive at a proper understanding of the question. It is due to the gentleman, and I will make a motion to that effect.

Mr. McCLELLAND—I hope the gentleman will not adopt that course. As to the misunderstanding that has taken place here, all have heard it, and I am willing to submit to the judgment of the Convention.

The question being upon agreeing to the committee's amendment to strike out section two, it was then taken by yeas and nays as follows:

YEAS—Messrs. P. R. Adams, W. Adams, Anderson, Arzeno, Barnard, H. Batrow, J. Batrow, Beardsley, Britain, Ammon Brown, Asahel Brown, Burns, Bush, Butterfield, Choate, Conner, Cook, Cornell, Desnoyers, Eastman, Eaton, Gale, Gardiner, Graham, Hascall, Kingsley, Leach, Marvin, McClelland, Moore, Mosher, J. D. Pierce, N. Pierce, Prevost, E. S. Robinson, Rix Robinson, Skinner, Storey, Town, Warden, White, Whipple—42.

NAYS—Messrs. Alvord, Axford, Backus, Bagg, Carr, Chandler, Church, J. Clark, Comstock, Crouse, Daniels, Dimond, Fralick, Gibson, Green, Hanscom, Hart, Harvey, Lee, Lovell, Mason, McLeod, Morrison, Mowry, Newberry, Orr, Roberts, Robertson, Soule, Sturgis, Sullivan, Sutherland, Tiffany, Webster, Whittemore, Williams, Woodman, President—39.

So the amendment was concurred in.

On motion of Mr. J. BARTOW, the article entitled "Judicial Department" was recommitted to the committee of the whole.

On motion, the Convention resolved itself into a committee of the whole, Mr. Cook in the chair, and resumed the consideration of the article entitled "Judicial Department."

Mr. McCLELLAND offered the following to stand as section two:

"For the term of six years, and thereafter until the Legislature shall otherwise provide, the judges of the several Circuit Courts shall constitute a Supreme Court; and four of said judges shall be a quorum able to transact business; and the concurrence of three of said quorum shall be necessary to a final decision. The Legislature shall have power, whenever they deem it expedient, to organize a separate Supreme Court with the jurisdiction and powers prescribed in this constitution; to consist of one chief justice and three associate judges, to be elected by the qualified electors of this State; said separate Supreme Court, when established, shall not be changed or discontinued by the Legislature for eight years after its organization; the judges thereof shall be so classified that but one of them shall go out of office at the same time, and their term of office shall be eight years."

Mr. HANSCOM moved the following as a substitute for the proposition presented by the gentleman from Monroe, [Mr. McCLELLAND.]

"The Supreme Court shall consist of four judges, three of whom shall be necessary to form a quorum, and the concurrence of three shall be necessary to every final decision. The final decision of the judges shall be in writing, signed by them; and a judge dissenting from a decision, shall give his reasons for such dissent in writing, under his signature; and the Legislature may, if they shall deem it expedient, require each of the judges of the Supreme Court to hold one of the terms of the Circuit Court in each year, in any of the counties of the State in which more than two terms are annually held."

Mr. BRITAIN moved to amend the substitute of Mr. McCLELLAND as follows: strike out "separate," wherever it occurs; and also strike out all after "decision" in

the fifth line, to and including "State," in the eleventh line, and insert, "The Legislature shall have power to provide by law for the organization of a Supreme Court, with the jurisdiction and powers prescribed in this constitution; to consist of one chief justice, to be elected by the qualified electors of the State; and three associate justices, who shall be circuit judges, and taken from the respective circuits for the time being, in such manner as the Legislature may deem expedient."

I shall beg permission (said Mr. B.) to explain my object in offering this amendment. This committee has already decided in favor of what is called the circuit system; and at the same time the provision adopted gives to the legislature the power to change that into an independent system, as it is called. What I wish to do is this: if we maintain the circuit system at all, I want to maintain as much of it as possible. Gentlemen will not understand me as deserting the circuit system, from the introduction of this amendment. I desire to have it so fixed in the constitution, that if the legislature should hereafter change the system of our judiciary, they will not be compelled to establish an entirely independent system. My vote has been given for the circuit system, and I do not desire to incorporate into the constitution a provision under which the independent court, which has received the condemnation of this body, may grow into existence. If the committee do not adopt this, I will offer another amendment providing for a court to consist of four judges, two of whom shall be circuit judges, and the others elected by the people.

I will present my views in regard to this circuit system now, as I have not heretofore troubled the committee on the subject; and in doing so, I shall trespass but for a very few minutes upon the time of the committee. I have constantly listened with profound interest to the arguments which have been presented on both sides of the question. Mr. Chairman, on one of the first days of the discussion, it was contended that the judges of the Supreme Court should associate with the people, and by mingling with them, become acquainted with their wants and necessities, and thereby would be qualified to perform the duties which devolved upon them.

But the declaration was made the opposite, that one of the censures to which our judges have heretofore been subject, is that they are too much with the people, too much controlled by popular opinion, and not independent enough in their decisions. That was one of the objections made by the gentleman from Oakland, [Mr. HANSCOM.] I beg leave to say that I do not suppose any one will make an objection here that is not worthy of notice. Therefore I propose to notice that objection. The judges, heretofore, have not been removed from the reach of political prejudices, or from the possibility of being candidates for one or all of your political offices. Some of them have moved about on your circuits at the time that they were standing candidates for office. Is it not from this fact that all the evils to which the gentleman adverted have had their origin? If so, is not that a fact which ought to have its weight in our decision of this question? And does not the fact of the judges being candidates for office, explain the cause of all those deleterious influences which have heretofore been thrown around the courts. I think it does.

Such a state of things has heretofore existed, as the gentleman from Oakland [Mr. HANSCOM] pointed out; and as many men, undoubtedly, believe with him, is it not the duty of this body to remove as far as possible our judicial functionaries for all future time to come, from the influences of those prejudices? I think it is; and the people have said so, for they have adopted the amendment to the constitution which prevents judges from being candidates for office. Then how are we to protect those tribunals against political prejudices? So long as you have an independent court, will not the circuit judge be a candidate for the office of a Supreme Court judge? He will. The question cannot be answered in the negative. The circuit judges will be, and every man knows it. Would we not have men treading closely on the heels of your circuit judges, promising to secure for them, at the end of their term, a seat on the supreme bench? And on the other hand, would we not find men striving to weaken the strength of your most conspicuous circuit judges—telling the people that their decisions are not what they should be, and would not stand the test of

judicial scrutiny? Why should we subject the judicial system of the State to such objections as this, after the people have warned us against them?

There is another thing which I desire to press upon the attention of the Convention; and that is this: the necessity of having your Circuit Court—which is of more importance to the people than all other courts—the necessity, I say, of having it a court of a higher character than any other, so far as you can practically make it so; and that cannot be accomplished in any other way than by having gentlemen upon your circuit bench who would finally decide questions of law in the Supreme Court. I wish the committee to understand me as being in favor of the circuit system. I offer this amendment for the reason already given. The election of the circuit judges is not mentioned in that amendment, but it is provided in the article now under consideration; therefore, it was not necessary to mention it here.

The question on the adoption of the amendment [Mr. BRITAIN'S] was put and lost.

Mr. BRITAIN moved to amend the substitute [Mr. McCLELLAN'S] in the following manner: to strike out the word "separate" wherever it occurs; also to strike out all after the word "decision," in the fifth line, to and including the word "State," in the 11th line, and insert, "The Legislature may provide by law for the organization of a Supreme Court, with the jurisdiction and powers prescribed in this constitution, to consist of four judges, two of whom shall be elected by the qualified electors of the State, and two of whom shall be circuit judges, and taken from the respective judicial circuits for the time being, in such manner as they may deem expedient."

Gentlemen will perceive (said Mr. B.) that there is the same reason for this amendment that there was for the other; the only difference is that two will be elected, and two taken from the circuit bench. I will only express my surprise that the former amendment, which sought to protect the friends of the circuit system, should not have received their support. The committee is simply in this position: they oppose the independent system, yet are going to put into this constitution a

principle which may raise up this entire system, if the Legislature so determine. According to the substitute, the Legislature would have no option, if a change in the judicial system were demanded, but to go into the independent plan. They would give up the entire circuit system. I did suppose that we would provide that whatever modification might be hereafter made, as much of the circuit system as practicable would be retained. The friends of the circuit system should examine this matter closely.

Mr. N. PIERCE—The gentleman is surprised that I did not vote for his amendment. I am not willing that the system we establish shall be changed. If the majority of the committee choose to establish the independent system, I will go with them. I am in favor of the circuit system, however. I did not wish to vote for the gentleman's amendment, because it would defeat the circuit plan.

Mr. BRITAIN—I thought so; the gentleman did not understand me. In explanation, I will inform the gentleman that I did not propose to change the system that the committee is adopting—not at all. I go for it. But I wish to put something in the constitution that will preserve a part of the circuit system, no matter what change the Legislature might hereafter make.

The question upon adopting Mr. BRITAIN's amendment was then put and lost.

Mr. MORRISON moved to strike out of the substitute, (Mr. McCLELLAND's,) the words "for the term of six years and thereafter."

In making that proposition, (said Mr. M.,) I do so in order that it may be left to the Legislature to act as they may see fit in regard to the establishment of the independent court, or the continuing of the circuit system. I do not think there has been a strong manifestation of sentiment against the establishment of an independent system, by any means. The vote this morning was very close. It must make it very evident that the people have thought of the matter, and that the old system of the circuit judges doing the Supreme Court business, does not meet with the universal approbation of the people of this State. If it be, may we not anticipate that the people will be desirous of a change—

if they be, as they certainly will, why not leave it in their power to perfect that change? By providing that the circuit judges shall be the Supreme Court judges for six years, we prevent them from acting differently—that is, adopting the other system—unless they had an alteration in the constitution, which is not likely to take place in that period. It is, in fact, forcing a thing upon the people, which we say they shall have whether they want it or not.

Gentlemen said they did not wish to leave this open to the Legislature. Why not? I believe any future Legislature we may have will be as competent, and as willing to carry out the wishes of the people as this Convention. No one, I presume, will attempt to say that the Legislature would not act in conformity with the opinions of their constituents. For my part I cannot by any possibility see why we should not leave the people to say what sort of a court they want. These are the reasons why I offer this amendment.

The amendment was disagreed to.

The question then recurring upon Mr. HANSCOM's substitute, the same was put and lost.

The question then turned upon the substitute presented by the gentleman from Monroe, [Mr. McCLELLAND.]

Mr. ROBERTSON moved to amend the substitute by striking out the words "for the term of six years, and thereafter until the Legislature shall otherwise provide."

It is claimed here (said Mr. R.) that the Convention has decided in favor of the Circuit Courts; and it has been claimed also that the reasons which have been adduced in favor of that system, are unanswerable. I shall not trouble the committee on this subject, at all. I do not desire to give any particular reasons why we should have an independent court; there have been plenty given here. I believe a majority of the people are in favor of it; but the committee has expressed an opinion contrary to what I supposed it would be. But I do say now, that there may not be any further delay about this matter, let them substitute the old system, which the people have condemned in all its naked deformities. Let them say we shall have the old Circuit Court system, and not betray the people with a kiss. Let gentlemen come out boldly for the system which has

been repudiated by the people, so that the people may know what they are voting for.

The proposition of the gentleman from Monroe, [Mr. McCLELLAND,] was that for six years you shall endure all the evils of this system; and then the Legislature shall go to work and give you a Supreme Court. That proposition has had its effect; it has brought over to his side some men who were opposed to the old circuit system. I propose to go further, and give the gentleman what he wants, if the reasons in favor of the Circuit Court system are unanswerable, and entirely conclusive. I propose then that the people shall pass upon that simple proposition, not mixed up with any other whatever. I need not give any reasons to show that the plan is preferable to the plan adopted by the committee; but I will say this, that the County Courts were established because of the crying evils growing out of the system which you now propose to erect. I hope then that the amendment will be adopted. I think the people would be better satisfied with what I propose.

The amendment was not adopted.

Mr. BAGG moved to insert after "decision," the words "and they shall cast lots as to whom shall set in banc in the Supreme Court for each and every year."

The committee refused to so amend.

The question being upon the adoption of Mr. McCLELLAND's substitute,

Mr. BRITAIN called for a division of the question; and the first part of the substitute was adopted.

Mr. KINGSLEY observed that the first part of the substitute said "for six years," and the last part, "whenever the Legislature shall deem it expedient." He wanted to know the meaning of this.

Mr. CHURCH remarked that he had his idea about it, and he supposed the gentleman had his too.

Mr. KINGSLEY then moved to amend the second branch of the substitute, by inserting after the word "expedient," the words "for the term of six years."

The motion was agreed to.

The question then recurred upon the adoption of the second branch of the substitute. The same was put, after some slight discussion, and adopted.

On motion of Mr. McCLELLAND, the

committee rose, reported the article with an amendment, in which the concurrence of the Convention was asked.

On motion of Mr. McCLELLAND the article with the amendment was referred to the committee on the judicial department.

The article entitled "Elections," coming up on its passage,

On motion of Mr. HANSCOM, the same was laid upon the table.

The article entitled "Corporations" was read a third time; when

Mr. McLEOD moved to recommit it to the committee on banking and other corporations except municipal, with instructions to strike therefrom the first clause of section 11, as follows: "From and after the year 1880, the Legislature shall have the power to alter or repeal the charters of all corporations whose charters shall not have expired previous to that time."

Mr. WHITE moved to strike out the entire article, and insert in lieu thereof as follows:

"Sec. 1. Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes. All general laws, and special acts passed pursuant to this section, may be altered from time to time, or repealed.

"Sec. 2. The term 'corporations,' as used in this article, shall be construed to include all associations and joint stock companies having any of the powers or privileges of corporations, not possessed by individuals or partnerships. And all corporations shall have the right to sue, and shall be subject to be sued in all courts, in like cases as natural persons.

"Sec. 3. The Legislature shall have no power to pass any act granting any special charter for banking purposes; but corporations or associations may be formed for such purposes, under general laws, by a vote of two-thirds of all the members elected to both branches thereof.

"Sec. 4. The Legislature shall not pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payments by any person, association or corporation issuing bank notes of any description.

"Sec. 5. The Legislature shall provide by law for the registry of all bills or notes issued or put in circulation as money, and shall require ample security for the redemp-

tion of the same in specie; such security to be in stocks, (bonds or evidence of debt issued by the United States or of individual States, or both,) which shall be deposited with the State Treasurer, and be at least, when offered, equal in value to the amount of bills or notes registered and issued for circulation.

"Sec. 6. The stockholders in every corporation and joint stock association for banking purposes, issuing bank notes or any kind of paper credits to circulate as money, shall be individually responsible to the amount of their respective share or shares of stock in any such corporation or association, for all its issues, debts and liabilities.

"Sec. 7. All corporations and joint stock associations created by the legislature, under and by virtue of this article, shall pay to the State Treasurer for the use of the State, at least one per centum per annum on the capital stock paid in, as a tax; and no other tax shall be assessed or collected against them.

"Sec. 8. In case of the insolvency of any bank or banking association, the bill-holders thereof shall be entitled to preference in payment, over all other creditors of said bank or association."

But the motion to so amend was lost as follows:

YEAS—Messrs. Burns, Carr, Chandler, Comstock, Daniels, Fralick, Gale, Green, Harvey, Lovell, White, Williams—12.

NAYS—Messrs. W. Adams, Alvord, Anderson, Arzeno, Bagg, Barnard, H. Bartow, Beardsley, Britain, Bush, Choate, Church, Conner, Cook, Cornell, Crouse, Dimond, Eastman, Gardiner, Gibson, Hanscom, Hascall, Kingsley, Leach, Mason, McClelland, McLeod, Moore, Morrison, Mosher, Mowry, Newberry, Orr, J. D. Pierce, N. Pierce, Robertson, Rix Robinson, Skinner, Soule, Storey, Sturgis, Town, Warden, Webster, President—45.

Mr. CHURCH moved to amend by adding further instructions, as follows: And to amend section three by striking out in lines 2 and 3, the words "all its debts," and insert "said bank notes or paper credits so circulated as money;" and to strike out in line 4, the words "for one year thereafter."

Mr. C. said: My object is to have this section so amended that the officers and

stockholders of every corporation or association for banking purposes, issuing bank notes or paper credits that circulate as money, shall be individually liable for these notes so circulated, and not individually liable for every kind of indebtedness that may possibly arise against that institution in favor of depositors or other persons who may deal confidentially with the corporation.

I think that the people who are obliged to take the paper credits of the institutions in the course of their every day dealings, and unacquainted as they are with the stockholders and officers of the bank, ought to be protected first. I am willing to extend the individual responsibility to that extent. But, if a person go to the establishment and make an arrangement with them, let him take the consequences of such an arrangement made by him with them voluntarily. The section as it stands would have the effect, I think, though it is no great object to me, of driving small capitalists out of the business. The last requisition of the section, that is, "for one year thereafter," is entirely unjust. I hope what I have suggested will be added to the instructions.

Mr. COOK—I hope the amendment will not be adopted. The intention of the committee was, that banks should be placed upon the same footing as private individuals, so far as regards their liability. They could see no reason why associated companies should be exempted from the same rule which applies to private persons. The gentleman from Kent [Mr. CHURCH] says this indebtedness is voluntary. Why, sir, indebtedness with individuals is voluntary, and all our business intercourse is voluntary, and not compulsory. We then apply this rule of individual liability to individuals and to partnerships. If I associate in business with that gentleman, I am liable for his acts—he is my agent. So it should be with banks. If persons associate together for banking purposes, and appoint an agent to do their business, why should they not be liable for the acts of that agent? If I go to a banking institution and buy a draft on the city of New York, and pay them a premium for it, why should not the stockholders of that institution be liable for the payment of that draft? It seems to me they should;

and if there should be any exemption from the rule, it ought to be in favor of individuals, and not the bankers. And why, sir? By reason of the privileges which the people give them for banking purposes. Has any individual the right to double his capital, and then loan it at seven per cent? No; but the banks have. Banks have the privilege of loaning their capital to the amount of fifteen per cent. Have individuals that right? We know they have not. Then why except banks from the liability of individuals? Is it that they have the right to make more on their capital than any one else.

The gentleman has alluded to depositors; he would have the bankers exempted of all liability to that class. I entirely differ with the gentleman. They put their money into the bank, which has the use of it, and pays them no interest. The debt so contracted is one of honor—one among business men the most sacred that can be created; yet the gentleman proposes to exempt the stockholders of the institution from any liability to the depositors. It seems to me to be entirely wrong. I would hold them responsible, just the same as I would any other individuals. I can see no reason why they should be exempted from that responsibility.

As regards the last amendment, I think it is of some importance; for it is well known with what facility—if you only make them liable for the time they are stockholders—they could dispose of their stock. If you strike out the proviso, "for one year thereafter," stockholders can dispose of their stock, and of course avoid all responsibility. It is well known to every gentleman, and to the people of this State, how easy it is for parties to get a bank and take the insides out of it, and then let it fall. That has been the experience of the people of Wisconsin in banking institutions? When stockholders find it no longer for their interest to keep a bank in existence, or rather when they find that they can make more by taking the money and putting it in circulation, giving their own notes on the bank, and taking from that bank all of its capital, that should be convertible for the redemption of its bills, they do take it all out, and the first we hear is, that the bank has failed. The creditors look into the vaults for the available prop-

erty of the bank, but it is all gone. Yet the gentleman [Mr. CHURCH] proposes that there shall be no liability except for the bill holder, who is provided for by the stock. The liability part of this article would amount to very little, or nothing, if the amendment prevails.

Mr. CHURCH—I withdraw my amendment for the present.

Mr. COMSTOCK moved to amend the proposition offered by the gentleman from Mackinac, [Mr. McLEON,] by instructing the committee to report the following as an additional section:

"The term 'corporations,' as used in this article, shall be construed to include all associations and joint stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue, and shall be subject to be sued, in all courts, in like cases as natural persons."

Mr. J. BARTOW—Does the gentleman mean to include municipal corporations?

Mr. COMSTOCK—This amendment is taken from the New York constitution. It merely defines the signification of the term "corporation," as applied to banking and such like institutions.

The amendment was adopted.

Mr. WHITE moved further to amend by instructing the committee to add the following as an additional section:

"All the officers and stockholders of every corporation or association for banking purposes, issuing bank notes or bills, or any kind of paper credits, to circulate as money, shall at all times be jointly and severally liable for all the debts and liabilities for such corporation or association."

Mr. HANSOOM proposed to add to the amendment last offered, the words "and for six years thereafter."

Mr. W. accepted the proposition.

Mr. MORRISON moved to amend by instructing the committee to report the following in lieu of section two of the article: "Corporations for banking purposes, shall be formed, extended or renewed by special laws, but no such act of incorporation, extension or renewal, shall take effect until the same shall have been submitted to the people at the next general election, (for representatives,) succeeding the passage of

the same, and approved by a majority of all the votes cast at such election for or against such law. There shall not be more than one act of incorporation, extension or renewal of any association with banking powers passed during any one session of the legislature;" and said: Mr. President: as I was absent when this article was under consideration in the committee of the whole, and also during its consideration in Convention, until it was ordered to a third reading, I am not aware what arguments were presented in favor of the provisions of the first and second sections, nor against them, if any; nor am I aware of the feeling of the Convention in regard to those provisions.

The first section of the article provides that the legislature shall pass no act of incorporation, only by general laws, (except for municipal purposes;) and the second section, as it now stands in the article, specifies the manner in which laws may be passed, by which corporations with banking powers may be formed. It is evident that the provisions of those two sections require that such corporations shall be formed only by general laws; consequently, if we are to have any banks in future, those banks will have to be formed under the provisions of a general banking law.

I would ask if gentlemen of this Convention believe that the interest of the State requires at this time the enactment of such a law? Whatever may be the opinion of others, my opinion is, that it does not; but, on the contrary, it is my opinion, that a general banking law (immaterial how well it may be guarded) would be detrimental to the interests of the State, both financially and morally. Michigan has had one general banking law, and what was the result of its operations? It is unnecessary for me to state in detail that result, for every member of this Convention is familiar with it; but suffice to say that bankruptcy and ruin, almost universally throughout the State, followed in its train. And are we again to pass through the scenes of 1837 and 1838? Are we to have a bank at every village throughout the State, for the purpose of manufacturing and putting in circulation paper, as money, as fast as they please?

It may be said that it will be in the power of the people to reject the law. That

is true, and that I consider as their only safeguard. But, sir, I fear that they will not do so, for by the provisions of this article of the constitution, they will have but one alternative, and that is to say that they will have no more banks at all, or to take the whole dose; and after the dose is once taken, they will be under the necessity of quietly submitting to the consequences.

There will be men enough of influence in every village, whose interest it is, or who may fancy that it will be for their interest, to have the law ratified by the people; and that influence will be exerted. The plea will be urged that we must have more banks; that the business of the country demands it; that the law and the constitution guards the bill-holders against loss, and that State stocks are to be pledged for the redemption of their bills; and every other argument, however fallacious, will be used to accomplish its sanction.

As to stock securities, I do not wish to be understood that I am opposed to that provision, for I consider that it will enable the bill-holder to realize a part at least of the amount which he might otherwise lose in case the bank should fail; but I will say that under a general law, it will be impossible to guard the people entirely against loss by such securities.

Other States have adopted similar provisions, and in the State of New York several banks have failed that were formed under the provisions of their general banking law, requiring security for the redemption of their bills; and, as I am informed, in every instance the people have sustained a loss. It may be contended that, as a general rule, the system in the State of New York has operated to the satisfaction of the people; this, perhaps, is so, but it is folly for us to compare Michigan with New York. A system that would aid the latter, financially, might ruin the other. New York contains a population seven times as numerous as Michigan, and has the largest commercial city on the continent; being the medium through which is transacted almost the entire commercial and mercantile business of the North-western States. I say, therefore, that we can not with propriety take the State of New York as an example; for, considering the great disparity between the two, the ex-

ceptions to the general rule there, it may be feared, and I believe, will prove to be the general result in this State.

Some three years since, the Legislature of the State of Ohio passed a general banking law, in consequence of which, a bank was started in almost every village in the State. I would ask if the people of Ohio are satisfied with the result? It is evident, sir, that they are not. By examining the proceedings of the Convention for the revision of the constitution of that State, you will find that the committee on corporations, feeling that the people demanded at their hands something which would in future be a safeguard against such institutions, have reported an article on that subject, which I will in part read:

"The General Assembly shall not have power to create any bank or banking institution whatever: or authorize the making, emission, or putting in circulation any bill of credit, ticket, certificate, promissory note, or other paper medium, intended to circulate as money, for currency.

"The General Assembly shall prohibit by law any person or personal association, company or corporation, now in existence, from exercising the privilege of banking, or creating, emitting, or putting in circulation any bank notes or any paper of any description whatever, to circulate as money or currency."

Such, sir, (said Mr. M.,) has been the result of the general banking law of Ohio, with a population several times as large as Michigan, and a State requiring greater financial facilities in proportion to its population.

The amendment which I have proposed provides that but one bank shall be incorporated during any one session of the Legislature; and that before such act of incorporation shall take effect, it shall be submitted to the people of the State for their approval. By adopting a provision of this nature, the people will have the full control of every such corporation, as far as regards their creation; and when the public interest requires additional banking facilities, such act of incorporation would be approved by them; and when the public interest did not require any more institutions of that nature, they would certainly reject the law, or at least would be more likely to do so, than they would with the

alternative required in the article as it now stands.

What would you think of a physician, who being called upon by an individual for medicine to relieve him from some disease which affected him, and the physician, after having the subject under due consideration, should calculate that the individual would probably be troubled about so often through life with the same complaint, and within thirty years would require in all a given quantity of medicine; and after ascertaining that quantity, as nearly as he could guess at it, should say to the individual that he had come to the conclusion that he must take all the medicine he might possibly require for the next thirty years, at one dose, and deal it out to him accordingly, peremptorily requiring the patient to take the whole or none? I think, sir, that you would say that he was a physician who ought never to have more than one patient. And, sir, this is the manner in which this article as it now stands proposes that the people of the State of Michigan are to be financially doctored. They took one such dose, secured by real estate, in 1837; but vomited it up as soon as possible. And now, sir, we are about to propose to them another dose, with the alternative that they must take the whole dose or none, congratulating ourselves with the idea that if they take it, the fault is theirs and not ours. I must say, Mr. President, that I am opposed to any such principle; and that in case the article is not changed in this respect, I shall feel bound to vote against it on its passage.

I am informed that the gentleman from Oakland [Mr. HANSCOM] designs to offer an amendment, by which the Legislature is to be prohibited from passing any act of incorporation for banking purposes; and in case the amendment proposed by myself, or something similar, is not adopted, I shall be happy to record my vote in favor of the proposition, which I understand the gentleman from Oakland proposes to offer.

Mr. BAGG—I will support the amendment; but not for the reasons given by the gentleman. I view the matter in an entirely different light. He assumes that the body politic, or the financial world is sick, and he wants to cure it with an antidote.

Mr. MORRISON (in his seat.)—I did not assume that ground.

Mr. BAGG—In my opinion the financial world is well. I look upon all banks as nothing more or less than a "Pandora's box," to make the people sick. I say give us but one "Pandora's box" at a time, so that we may be able to battle with and overcome the disease arising from it. Let them be, as the Poet says, "like Angel's visits, few and far between;" (laughter;) or I might say like Indians. I would not dignify them with the name of "Angel's visits." I will therefore vote for the proposition, but for an entirely different consideration.

The question was then taken upon adopting the amendment presented by Mr. MORRISON, and was not sustained.

Mr. MOORE moved to adjourn; but the Convention refused to adjourn.

On motion of Mr. COOK, the article was laid upon the table.

On motion of Mr. WOODMAN, the article reported by the committee on the punishment of crimes was made the special order of the day for to-morrow.

On motion of Mr. CORNELL, the Convention adjourned.

Afternoon Session.

The Convention was called to order by the President.

On motion of Mr. COOK, the article entitled "Corporations" was taken from the table.

Mr. MASON moved a call of the Convention; and the same being ordered, after calling the roll, the absentees appearing, all further proceedings under the call were dispensed with.

The question was announced as being on recommitting the article with instructions.

Mr. McCLELLAND said—There is an amendment to the last clause of the 11th section, which I would suggest to the gentleman who is chairman of the committee to whom the instructions are to be given. This last clause, I understand, would prohibit the construction of rail roads in the State; for, if we are to grant a charter to a rail road which will not run longer than thirty years, it will be very difficult to get the stock taken up. I would suggest to gentlemen who have any thing of the kind in

contemplation, to amend this article so as to extend the term of charters for rail roads. The people in my section of the State are not much interested in this matter. I move, therefore, to add to the instruction, after the word "created," the words "except for the construction of rail roads."

Mr. HANSCOM—You can move to amend the original section.

Mr. McCLELLAND—Then I ask the unanimous consent of the Convention to so amend.

Mr. CROUSE—Will the gentleman add the words "canals and plank roads?"

Mr. McCLELLAND—I have no objection to include canals, but I do not think that any more are going to be made. As to the plank roads, the gentleman will see at once that it is unnecessary to particularize them here. A plank road will last, say ten years; so that the provision allows them to construct anew their road twice after its first completion.

The section (11th) was then amended as proposed, by general consent.

Mr. HANSCOM here observed that the words "rail roads" were left out for the very purpose of bringing such companies within the scope of the article.

Mr. J. D. PIERCE said: I assume the position that the happiness of the people, the greatest good of the whole, is the supreme law. Whatever legislative enactment contravenes this paramount law, the people in the exercise of their original inherent sovereignty may and ought to annul. When a charter becomes detrimental to the public interest, it ceases to answer the professed end of its creation, and may and ought to be repealed. Those advocating this doctrine have been sneered at, and an attempt been made to laugh them down; but, I tell you gentlemen, that the thing is not so easily done. This great principle is yet to be vindicated, is yet to triumph over all the powers marshalled by wealth, and will be sustained. Those vested rights, created by charters, must yield, when they come in conflict with the supreme law—the public good. The people in their sovereignty owe it to themselves—they are bound, by every consideration of justice and of right, to remove out of the way every institution that shall be found in its operations and results inconsistent

with the great end of their being—the highest good of the whole, individually and collectively.

I defy any man successfully to controvert this position. Gentlemen may cite as many judicial decisions as they please; the position remains untouched, unharmed and as immovable as the eternal hills. I too might cite the authority, opinions, reasonings and arguments of some of the noblest minds and loftiest intellects that ever lived, to sustain my position. But, while I yield to reason and argument, I regard not the opinions of men, or the authority of names, as binding against right.

When Fox and Burke wielded the destinies of the British Empire, they introduced into Parliament a bill to repeal the charter of the East India Company. The measure was sustained by speeches unequalled in eloquence, and by arguments and reasons never yet answered. The bill was defended by six distinguished men, who subsequently became chief justices, and by Mansfield, a name not unknown to fame. They based the right of repeal upon the ground that the further existence of the charter was inconsistent with the public good. True, they were defeated. The money power triumphed. The company then wielded a revenue equal to that of the United States at the present time. But the eloquence, reasoning and arguments of those giants in intellect remain and ever will remain a proud monument to truth and right.

I know it is claimed that Parliament is omnipotent. But omnipotent though it be, it is confessedly, in theory at least, bounded by the principles of justice. But Parliament has no power which is not original and inherent in the people of these States. Whenever a charter becomes, from any reason whatever, repugnant to the public good, the eternal principles of right demand its repeal; and the people in their sovereign capacity fail of their duty if they do not do it. But I have a better and nobler example. The fathers of Republicanism in this country asserted the right to repeal a charter, whenever the public good required it. And they exercised the right; they did the thing. They repealed a perpetual charter, despite the cry of vested rights. The case to which I refer is this: In 1782 an act was passed creating the

Bank of North America. In 1785, so deeply injurious to the public interest was the bank regarded by the people of the State, that the charter was repealed. In the course of the debate, Mr Finley remarked: "The right of the Legislature is so clearly confessed by gentlemen of legal knowledge, it is so essential to the safety of government, that it would be an insult to the good sense of the house to say anything more about it." Sir, this thing was done when such a man as one Benjamin Franklin was Governor of the Commonwealth of Pennsylvania.

I know perfectly well what will be said in this Convention. An attempt will be made to break the force of the example and argument by referring us to the constitution of the United States, subsequently adopted, and that much perverted clause in it will be quoted: "No State shall pass any law *impairing the obligation of contracts*," just as though a law granting privileges to a company was a contract, in the sense of the constitution. I apprehend that the States, when they adopted the constitution, never dreamed that they were signing away one of the essential elements of their sovereignty.

For more than twenty years after the adoption of the constitution, no interpretation of this clause was given, which involved the rights of the States. In 1810, in a case where the State of Georgia had granted lands to individuals, and had revoked the grant, the Supreme Court applied the prohibition. They construed the grant of land to be a contract, and the revoking the grant impairing the obligation. And in 1819 the court determined that a royal charter for a college was a contract in the sense of the constitution; and hence, the State of N. H. could not legislate in regard to it, without impairing its obligation. These decisions have produced a vast amount of mischief and litigation. Many attempts have been made to bring other laws within the indictment, but with little or no success. The court cannot have failed to discover the fearful results to which they led, and those decisions will be abandoned. And I have been credibly informed that of late the judges have taken care to make it known that none of their determinations have intimated that a State statute, which divests a vested right, is repugnant to the

constitution of the United States. There cannot be less than eight thousand corporations within the several States. If their charters are to be regarded as contracts, then they are absolutely beyond the reach of State legislation. A fearful consideration, truly! The circulating medium, the business, the capital and welfare of the country mostly in the hands of these corporations, and the States in their sovereign capacity no authority over them! It cannot be. They never intended to surrender the power of control. To take it from them by a mere legal fiction, through the interpretation of a doubtful passage, is, to say the least, a usurpation not to be borne. If the federal courts may thus bind the States, they are but mere slaves; the essential attributes of sovereignty are gone.

But I have not yet done. In 1836, George M. Dallas wrote as follows: "A convention is the prescribed machinery of peaceful revolution. It is the civilized substitute for intestine war; the American mode of carrying out the will of the majority; the inalienable and indefeasible right to alter, reform or abolish their government in such manner as they shall think proper. When ours shall assemble, it will possess * * * every attribute of absolute sovereignty, except such as may have been yielded and embodied in the Constitution of the United States. What may it not do? It may re-organize our entire system of social existence, proscribing and terminating what is deemed injurious and establishing what is preferred. * * * The only effective limits to its authority are the broad and unchangeable rules of justice and of truth."

This gentleman, after the promulgation of these sentiments, the people of this country delighted to honor, and they elevated him to the highest station in their gift, but one—they made him Vice President of these United States.

There is but one other mode of removing unbearable evils, and that is the European. Take away the peaceful mode above described, and the people have no remedy, no alternative, but the application of physical force—insurrection, with all the incidents of barricades, storming of cities, carnage, rapine and murder, the confused noise of the warrior, and garments rolled in blood.

I cannot but respond a cordial amen to the wish of the gentleman from Hillsdale, that the time may come when we shall have republican courts—courts that will decide according to the right and reason of things.

In case of investments, provision should be made to secure the owners their rights of property. But rights of property and chartered rights are very different things. No one wishes to despoil them of their property, nor does the provision imply any such thing. I am opposed to striking out. The provision is an assertion of the right of the State; a principle which cannot be successfully denied.

A division of the question being had, the same turned upon recommitting, and was taken by yeas and nays as follows:

YEAS—Messrs. P. R. Adams, Arzeno, H. Bartow, J. Bartow, Beardsley, Butterfield, Carr, Chandler, Choate, Church, Comstock, Cornell, Daniels, Desnoyers, Eastman, Fralick, Gale, Green, Hart, Harvey, Kingsley, Lovell, Mason, McClelland, McLeod, Morrison, Newberry, Orr, Prevost, Roberts, Robertson, Rix Robinson, Skinner, Storey, Sturgis, Sullivan, Webster, White, Whipple, Williams, Woodman, President—42.

NAYS—Messrs. W. Adams, Alvord, Andeson, Axford, Bagg, Barnard, Ammon Brown, Asahel Brown, Burns, Conner, Cook, Crouse, Dimond, Eaton, Gardiner, Gibson, Hanscom, Mowry, J. D. Pierce, N. Pierce, Soule, Town, Warden—23.

So the question was sustained.

The question then recurred upon instructing the committee.

Mr. CHURCH moved to amend the same by further instructing the committee to amend section 3 by striking out in the second and third lines, the words "all its debts," and inserting in lieu thereof, "said bank notes and paper credits so circulated as money." Also, to strike out in last line of the same section, the words "and for one year thereafter."

Mr. CORNELL inquired the object of the gentleman in making this proposition.

Mr. CHURCH—The object was stated at the time I proposed these instructions, which I afterwards withdrew. The object is briefly this: to hold the stockholders and officers of any banking institution liable for the notes or any other form of paper credits

sent into circulation as money, by them, and which the community have to take as money. But I would exclude depositors; because the transactions between a depositor and a bank are voluntary on his side; he has opportunities to look into the responsibility and solvency of the stockholders, and all business between him and them results from his own proper motion. Nor do I think that the widow or orphan who held stock, should be held liable for the debts of the institution, except for the paper money which it had set afloat in circulation.

Mr. BAGG—I should like to know what amount of bank stock widows and orphans hold. (Laughter.)

Mr. CHURCH—I cannot give the gentleman any information on the subject, more than that I know there is a good deal of stock held by the heirs of deceased persons.

Mr. CORNELL—I would be glad to know what great opportunity depositors have of ascertaining the responsibility of stockholders, more than those who take their notes in the course of trade.

Mr. CHURCH—There is a manifest difference, as any one can see. The man who makes a deposit in the bank knows better whether his money is secure or not, than the man who takes a dollar in change in the street, or in the ordinary course of business. We cannot well get along without this paper money—it is almost absolutely necessary; but the parties circulating it, that is, who issued it, I do believe should be held responsible for its redemption. I think this extreme accountability and strictness will operate so as to prevent the investment of capital in those institutions, without securing an equivalent.

Mr. CORNELL agreed with the gentleman in reference to protecting the bill holders. But was it not wrong that the poor depositors who left their money in the hands of the bankers, who made use of it without paying for it, should not be protected also?

Mr. MORRISON—Section five provides that the bill holder, or any person holding anything in the way of a note, or bill of credit, has the preference over all other debtors. I do not look at it in the same light as the gentleman, [Mr. CHURCH.] He

seems to intimate that it is a matter of necessity that a man should take back bills that are in circulation. He is under no obligation so to do unless he be disposed. He stands in the same light as the person who is making a deposit. No man is bound to deposit money in a bank. The bill holder is provided for in the other clause, for the State stocks are pledged for the redemption of the bills he holds. But the depositor would be unprotected in any particular; therefore, I am decidedly opposed to striking out, as proposed.

Mr. COOK—I should like to have a division of the question. It is at too late a day for any man to get up and propose to relieve banking institutions of their responsibility. We have provided that the bill holder shall be secured by stock. Under ordinary circumstances that will pay him very well. Now this proposition is to make the bank liable only to the bill holder, who is already provided for. I do not think this question needs any argument. Is it not, however, rather late in the day for any man to make a proposition of this kind? It was especially not to be expected from a gentleman belonging to the same party that I do.

Mr. CHURCH—I think it is rather early in the afternoon for the gentleman to rise and state that any such proposition has been made. If he take and read the words of the amendment proposed to be made, he will see that it is intended to hold these institutions responsible for the paper which they circulate as money. Yet, this gentleman, with his remarkably clear perception, rises in his seat and states that he is surprised a member should be found to rise at this late day, and propose to release a banking institution from all responsibility. I have heard of those who never could tell a hawk from a hand-saw. I had supposed it was a mere poetical license; and in truth I never thought it would find its realization on this floor.

Mr. BRITAIN—This is a question which has previously occupied much attention. I may be permitted perhaps to say a few words upon it. I know it has been said that banks, as well as individuals, should be held responsible for their liabilities. Now, sir, I think the amendment sent to the Chair by the gentleman from Kent, [Mr. CHURCH,] exhibits at least a

discriminating mind. Whether it be adopted or not, it exhibits a discrimination which is not usually seen in the minds of men who merely glance superficially at a subject. What is our duty as public men in this matter? If you wish to veto banks in every possible shape, and prevent their creation in any form whatever, do so. If you expect to have them at all, then have the soundest you can get. Is not that our duty? Then if you have them at all, how can you secure the soundest? That is the question. What is the condition of the thing? Do you want banks, the stock of which is held by persons having no property of their own, and whose personal responsibility, if the bank break, will be of no service to the parties who hold their bills? That is the plain question. I know perfectly well the difficult ground upon which I stand. I know the feeling that is growing up in this House relative to the position which I have taken, and the gentleman from Kent, [Mr. CHURCH.] But there is such a thing as a line of duty.

Who do you want to have for stockholders in the banks? Do you want men of straw to stand between the capitalist and the bill holder? That question I put to the gentleman from Hillsdale, [Mr. COOK.] Do you want men of capital, who are willing to let you have their capital to bank upon? If you want the latter, how can you induce them, they living in foreign States, to entrust their millions to agents in this State, who will have it in their power to make them liable to such amounts as would entirely rob them of their living? Yet I am willing that gentlemen should take notes and publish them. I know what I am about on this question. Do you think you can find a man in any foreign State, worth his half-million, perfectly independent, willing to send his \$300,000 here to a Michigan agent to bank upon, with the possibility of not only squandering the \$300,000, but of robbing him of his remaining \$200,000, on which he expected to live? The capitalist will say: "I am willing to send \$300,000; that leaves me \$200,000 to live upon." That leaves him sufficient to live upon for the remainder of his life, if he should happen to lose the former amount. In that way you can get capital to bank on. But when you say that the man who sends here his capital to

bank on, shall be liable for every debt that those agents create, he will not send his capital here at all. Now, if you can procure capitalists to subscribe for your stock, it is good for something; but if you cannot, of what good is it; for if you can get but bankrupts only to take your stock, of what use is their individual liability afterwards?

Sir, this is no new question to me; I have examined it before now in its length and breadth. I know the value of it to the bill holder—it is not worth a pinch of snuff. Think you that a bank will break and permit a man of capital to be mulcted by the bill holders? No sir. If a capitalist has taken stock in the bank, which he will be careful not to do, but if he has, it will be very soon transferred to some man of straw, who is worth nothing. I beg to call attention to a bank now in existence in this State—I mean the Michigan Insurance Company. But in all I have said, I do not desire to be considered an advocate of banks. How long did that bank do business on a small capital on this individual liability principle? Why was not its capital paid up; because the stockholders were not able to do it? By no means, sir; but because they were unwilling to trust any agent with the legitimate banking business which would make them liable for all they were worth, and thereby perhaps reduce them and their families to beggary. I am willing to go for any security under heaven, I care not what it may be, when you convince me that it will accomplish the object we have in view, and will not flatter the eye of the people while it flatters their hearts. I object to this demagoguism which calls out to the people and boasts that it is a guard, and when it comes into their hand proves to be no guard at all.

Mr. HANSCOM—This matter seems to be involved in a sort of Gordian knot on both sides. It appears to be supposed that banking is a kind of infamous robbery on the people, in any form; so to relieve gentlemen on both sides from all further difficulty, I offer this substitute for section 2:

"No banking law or law for banking purposes, nor any act creating, renewing or continuing any association or corporation for banking purposes, shall ever be enacted by the legislature."

I also propose the following as a substitute for the third section:

"No law now in force in this State, creating or authorizing any bank or banking institution, or incorporating any company or association for banking purposes in this State, shall extend to or have any force or effect after the first day of January, 1853; and no such institution, now existing in this State, shall issue any note or bill to be circulated as money after the first day of January, 1851."

The PRESIDENT—This amendment is not in order now; it will be when the pending amendment shall have been disposed of.

The question upon the adoption of the amendment (instructions) presented by the gentleman from Kent [Mr. CHURCH] was then put and lost.

Mr. HANSCOM then moved to amend by substituting for sections 2 and 3 what he had previously read.

A division of the question being called for, the same turned on the first branch of the amendment, viz: to strike out section 2 and substitute as above; and the yeas and nays being ordered thereon, resulted as follows:

YEAS—Messrs. Anderson, Bagg, Barnard, Beardsley, Britain, Asahel Brown, Carr, Church, Dimond, Eaton, Gale, Gardiner, Hanscom, Hart, Hascall, Morrison, N. Pierce, Roberts, Robertson, Rix Robinson, Soule, Town, Warden, Webster, White, Williams, Woodman—27.

NAYS—Messrs. P. R. Adams, W. Adams, Arzeno, Axford, H. Bartow, J. Bartow, Ammon Brown, Burns, Butterfield, Chandler, Choate, Comstock, Conner, Cook, Cornell, Crouse, Eastman, Fralick, Gibson, Green, Harvey, Kingsley, Leach, Lee, Lovell, Mason, McClelland, McLeod, Moore, Mosher, Mowry, Newberry, Orr, Prevost, Skinner, Storey, Sullivan, Whipple, President—39.

So the first portion of the amendment was disagreed to.

The remainder of the proposition was also rejected by yeas and nays, as follows:

YEAS—Messrs. Alvord, Anderson, Bagg, Beardsley, Britain, Asahel Brown, Burns, Carr, Church, Cook, Daniels, Dimond, Eaton, Gardiner, Hanscom, Hart, Hascall, J. D. Pierce, N. Pierce, Roberts, Robertson,

Rix Robinson, Soule, Town, Webster, White, Williams, Woodman—27.

NAYS—Messrs. P. R. Adams, W. Adams, Arzeno, Axford, Barnard, H. Bartow, J. Bartow, Ammon Brown, Butterfield, Chandler, Choate, Comstock, Conner, Cornell, Crouse, Eastman, Fralick, Gale, Gibson, Green, Harvey, Kingsley, Leach, Lee, Lovell, Mason, McClelland, McLeod, Moore, Morrison, Mosher, Mowry, Newberry, Orr, J. D. Pierce, Prevost, Skinner, Storey, Sullivan, Warden, Whipple, President—41.

Upon Mr. McLEOD's proposition as amended, a division of the question was had, and the instructions in regard to section 11 were agreed to by yeas and nays, as follows:

YEAS—Messrs. P. R. Adams, Alvord, H. Bartow, J. Bartow, Beardsley, Butterfield, Carr, Chandler, Choate, Church, Comstock, Cornell, Daniels, Eastman, Fralick, Gale, Green, Harvey, Kingsley, Leach, Lee, Lovell, Mason, McClelland, McLeod, Moore, Mosher, Mowry, Newberry, Orr, Prevost, Roberts, Robertson, Rix Robinson, Skinner, Storey, Sullivan, White, Whipple, Williams, Woodman, President—42.

NAYS—Messrs. W. Adams, Anderson, Arzeno, Axford, Bagg, Barnard, Britain, Ammon Brown, Asahel Brown, Burns, Conner, Cook, Crouse, Dimond, Eaton, Gardiner, Gibson, Hanscom, Hart, Hascall, Morrison, J. D. Pierce, N. Pierce, Soule, Town, Warden, Webster—27.

The question then turned upon adopting the second branch of the proposition, instructing the committee to report an additional section, which was put and carried.

So the article was recommitted to the committee in which it originated, with instructions.

Mr. COOK, from the committee on banking and other corporations except municipal, to whom was referred the article entitled "Corporations," with certain instructions, reported the same back to the Convention amended agreeably thereto.

Mr. COOK moved the previous question on the article, and the same being sustained, the main question was ordered to be now put; and on the question, "Shall the article now pass?" the yeas and nays were ordered, and with the following result:

YEAS—Messrs. P. R. Adams, W. Adams, Arzeno, Axford, H. Bartow, Beardsley, Am-

mon Brown, Butterfield, Chandler, Choate, Church, Conner, Cook, Cornell, Crouse, Daniels, Eastman, Gibson, Harvey, Kingsley, Lee, McClelland, Mosher, Mowry, Newberry, Orr, J. D. Pierce, Rix Robinson, Skinner, Soule, Storey, Sullivan, Town, Warden, Willard, Woodman, President—38.

NAYS—Messrs. Alvord, Bagg, Barnard, J. Bartow, Britain, Asahel Brown, Burns, Carr, Comstock, Eaton, Fralick, Gale, Gardiner, Green, Hanscom, Hart, Hascall, Lovell, Mason, McLeod, Morrison, N. Pierce, Prevost, Roberts, Robertson, Webster, White, Whipple, Williams—29.

So the article (corporations) was passed, and under the rule, referred to the committee on arrangement and phraseology.

Mr. McCLELLAND moved to adjourn; but the Convention refused to adjourn.

On motion of Mr. MOORE, the article "Exemptions and the rights of Married Women," was taken from the table, and the question being on the passage of the same,

Mr. AXFORD moved that the article be committed to the committee on Exemptions and the rights of Married Women, with instructions to amend as follows:

Strike out sections one and two, and substitute the following to stand as sections one and two of said article:

Substitute for section one: "Personal property to the amount of not less than two hundred and fifty dollars nor over five hundred dollars of every resident of this State shall be exempt from sale on execution or any other final process of any court of law or equity, except for the purchase money of the same; and at the first session of the legislature after the adoption of this constitution they shall provide and designate by law the kinds of property and the amount so to be exempted."

Substitute for section two: "A homestead of every family of this State, of forty acres and no more, not exceeding in value five hundred dollars, and which shall not be included in any city, village or recorded town plat, or in lieu thereof, any lot in any village, city or recorded town plat, not exceeding in value five hundred dollars, shall not be subject to any forced sale for any debt contracted after the adoption of this constitution, except for the purchase money of the same; nor shall the owner of such

homestead, if a married man, alienate the same by any deed of conveyance without the consent of his wife, obtained in due form of law; but no such exemption shall be valid, except the owner or owners thereof shall have filed a description of the same in the office of the register of deeds in the county in which said real estate is situated."

Mr. J. D. PIERCE offered the following substitute for the instructions proposed by Mr. AXFORD:

Amend section 1, line 1, by inserting after "State" the words "to consist of such articles as shall be designated by law." Also, amend section 2, line 3, by inserting after the word "plat," as follows: "or such parts of lots as shall be equal thereto, not exceeding in value \$1,500." Amend section 3 by striking out of line 3 the following: "for their benefit and support during minority."

Mr. AXFORD moved to strike out "\$1,500" and insert "\$500."

A division being had, the Convention refused to strike out.

The substitute was then agreed to by yeas and nays, as follows:

YEAS—Messrs. P. R. Adams, W. Adams, Alvord, Arzeno, Bagg, Barnard, H. Bartow, Britain, Ammon Brown, Asahel Brown, Burns, Chandler, Choate, Church, Comstock, Conner, Cook, Cornell, Daniels, Eaton, Eastman, Gale, Gardiner, Gibson, Green, Harvey, Hascall, Kingsley, Lovell, Mason, Moore, Morrison, Mosher, Mowry, Orr, J. D. Pierce, N. Pierce, Rix Robinson, Soule, Storey, Sturgis, Town, Warden, Webster, Whipple, Williams, Woodman, President—48.

NAYS—Messrs. Axford, Butterfield, Carr, Crouse, Fralick, Hanscom, Lee, Newberry, Robertson, Skinner—10.

Mr. MASON moved to amend the instructions by adding: amend section 1 by striking out "resident of," and inserting in lieu thereof the words "person in;" which did not prevail.

Mr. MOORE moved to amend the same by adding: amend section 5 by inserting after "devise," the words "otherwise than from her husband;" which was not agreed to.

Mr. BEARDSLEY moved to amend the instructions by adding: amend the 5th sec-

tion by adding thereto, "and she may devise the same as if she were unmarried."

Mr. ROBERTSON moved to adjourn; but the Convention refused to adjourn.

Mr. BEARDSLEY's amendment was then agreed to by yeas and nays as follows:

YEAS—Messrs. P. R. Adams, W. Adams, Alvord, Anderson, Arzeno, Bagg, Barnard, H. Bartow, Beardsley, Ammon Brown, Asahel Brown, Burns, Butterfield Church, Comstock, Crouse, Daniels, Eastman, Eaton, Gale, Gardiner, Hart, Harvey, Hascall, Kingsley, Moore, Mosher, Mowry, N. Pierce, Prevost, Rix Robinson, Skinner, Soule, Storey, Sturgis, Warden, Webster, White, Whipple, Williams, Woodman—41.

NAYS—Messrs. Axford, Britain, Carr, Choate, Conner, Cook, Desnoyers, Fralick, Gibson, Hanscom, Lovell, Newberry, Orr, J. D. Pierce, Robertson, President—16.

The proposition of Mr. J. D. PIERCE, as amended, was then agreed to, and the article recommitted with instructions.

Mr. J. D. PIERCE, from the committee on exemptions and the rights of married women, reported back the article bearing that title, amended agreeably to instructions.

The question being, "shall the article now pass?" the yeas and nays were had, as follows:

YEAS—Messrs. P. R. Adams, W. Adams, Alvord, Anderson, Arzeno, Bagg, Barnard, H. Bartow, Beardsley, Britain, Ammon Brown, Asahel Brown, Butterfield, Chandler, Choate, Church, Comstock, Conner, Cook, Cornell, Daniels, Desnoyers, Eastman, Eaton, Gale, Gardiner, Gibson, Green, Hanscom, Hart, Harvey, Hascall, Kingsley, Lovell, Mason, McClelland, Moore, Morrison, Mosher, Mowry, J. D. Pierce, N. Pierce, Robertson, Soule, Storey, Sturgis, Town, Warden, Webster, White, Williams, Woodman—52.

NAYS—Messrs. Axford, Burns, Carr, Crouse, Fralick, Newberry, Orr, Rix Robinson, President—9.

So the article was passed, and under the rule referred to the committee on arrangement and phraseology.

On motion of Mr. COOK, the Convention adjourned.

SATURDAY, (47th day,) August 3.

The Convention met pursuant to adjournment and was called to order by the PRESIDENT.

Prayer by the Rev. Mr. SANFORD.

RESOLUTIONS.

On motion of Mr. BUSH,

Resolved, That the committee on printing be requested to instruct the State printer not to strike off the copies of any form of the debates set up, until the reporter who has reported the same shall have had an opportunity of examining the proof sheet.

Mr. BRITAIN would move for a reconsideration, so that the gentleman from Ingham would explain his meaning. Was the object to cast a stigma upon the committee? Was the motive to allow the reporters to sit six weeks after the adjournment, to arrange their reports? If the gentleman persisted in his motion, he would add another, that the committee on printing be discharged.

The motion to reconsider was carried.

Mr. J. D. PIERCE—There is a great deal of time taken up on trivial matters, which might well be dispensed with. They have the right to see the proof sheet.

Mr. BUSH—I do not see anything reprehensible in the resolution. I was not aware of the facts until this morning. I was told by a reporter this morning that he had been repeatedly for the proof of the matter that he had reported, and that he could get no satisfactory answer. If this statement is true, and I have no reason to doubt it, I see no impropriety in this Convention instructing the printer, through the committee, to afford the necessary facilities. I was not aware that there would be any feeling on the subject, as it was upon my part an act of courtesy.

On motion of Mr. ALVORD, the resolution was indefinitely postponed.

The Article reported by the committee on the punishment of crimes, coming up under the resolution of yesterday, and the question being upon ordering it to a third reading,

Mr. WOODMAN said—As a member of the committee that reported the article, I feel bound to say a few words in its defence. As to the phraseology of the report I shall say nothing. The principle is all that I shall endeavor to discuss; and I

wish to say, in the commencement, that the committee considered this was all that came under their consideration after the gentleman from Wayne had refused to act as chairman. And, although we were thus deprived of our head—though the legal knowledge of the gentleman from Wayne was lost to us—though we lost the reflected splendor which the committee might have enjoyed, sustained by his helping hand, we yet endeavored to do the best we could. We instructed Mr. WARDEN to report. And after various delays it was presented. We can say if it is not as lengthy as some, yet it is a unanimous report, and we think that a careful consideration would establish this principle in the mind of every man.

Four years ago the State of Michigan abolished capital punishment, and our experience now will warrant us in asserting the principle in the constitution. I base this assertion upon the fact that crime has not increased since that time within the boundaries of this State. There are only four convicts within the State Prison for the crime of murder; and I learned from the Executive that only one knew that the death penalty had been abolished—showing conclusively that the principle may safely be here adopted.

We are the observed of all observers. We have tried it for four years, and the eyes of the people of the Union are upon us to see whether we will sustain the advance we have made, or fall back to the old system. Gentlemen must see that this view is correct. Although the State of Michigan has taken the lead in this measure, it has been agitated in other States; and I am credibly informed that in the State of New Hampshire the principle was lost only by a single vote. I apprehend few gentlemen will deny that the principle is right. Few measures, in my opinion, will find more favor with the people, and I believe that few measures are of more importance than this, whether we shall or shall not establish this principle.

As one who feels fully the importance of this principle, I hope that the question will be fairly taken upon its merits. The lives of our fellow beings depend upon our decision. I believe that the principle is thoroughly established; I believe that there are but few men who are not satisfied from ex-

perience that the penalty of death does not deter from crime. I shall sustain the principle. I hope that it will be inserted in the constitution.

Mr. BEARDSLEY—I cannot but express my disapprobation that this should be inserted in the constitution of the land. If I understand the bible, I believe death was the punishment for murder, fixed by the Almighty; and it is not necessary to have it abolished by the fundamental law. It is abolished by the statute, and it has not been sufficiently tried to ascertain whether it will be successful or not. The gentleman says that four convicts are in the State Prison for the crime of murder; that only one knew that the death penalty was abolished. This argument only proves that ignorance of the law prevails among the people. Crime might be ten times increased if it was fully understood by all. It appears to me that a principle of this kind is encouraging murder, if a man is only to suffer imprisonment for the crime of murder. The same of rape. Take a case: A man endeavors to rob my house; I discover him; it was not his intention to murder me; but he does so, because he destroys my evidence; while, if detected, his punishment is not greater, even if the crime of murder is added.

Mr. FRALICK moved an indefinite postponement.

Mr. WOODMAN—I hope the gentleman will withdraw his motion. I hope the principle will be voted upon on its merits. I, for one, am anxious to record my vote in its favor, to be engrafted in the constitution; and if there is not another vote in this House, I will still cheerfully give mine in its favor. It is a principle that has grown with my growth and strengthened with my strength; and I ask this Convention that upon it I may record my vote.

Mr. CORNELL—We now have a law to that effect in the statute, and I see no necessity for placing it in the constitution. It is the right of society to preserve itself by punishing crime, by the best measures that will ensure its safety. If a man commits crime he should be punished. If a community cannot punish crime in a proper manner to preserve themselves without taking life, they have a right to take it; if they can punish crime properly by any other means, they have a right to do so.

There are a great many circumstances to be taken into consideration with regard to this question. I have heard it said that criminals would rather be executed at once than drag out a lingering life in the penitentiary; this argument, however, I consider to be fallacious; for the fear of death and the love of life are the most powerful motives in the human breast; all would rather exist. Experience, however, has shown that the punishment of death does not deter from crime. What was the law in England? A man might swindle thousands, might ruin hundreds, and yet escape; a boy who stole a gooseberry pie might be hung. I admit that it is not so now; but has it ever prevented or deterred from crime? Individuals have stolen from under the gallows; it has not even there deterred from crime. In order to deter, the punishment should be certain. Every gentleman knows the difficulty of obtaining a jury or a verdict against a criminal, when the law punishes with death. Punishment should be certain when the fact is proved.

I have no particular objection to this principle being here engrafted, but I do not see the necessity of it, for we have now the means within our reach; we have it on the statute; therefore, it is needless to place it in the constitution.

Mr. WOODMAN—It is not enjoined upon us by Scripture—it was part of the Jewish code used at that particular time; it might have been proper to have had greater severity of laws; reasons might have existed then which do not now.

Gentlemen say that we should not insert this in the constitution; that it is needless. We have put in the constitution an exemption of 40 acres, and I conceive this is fully as proper. I ask the gentleman to withdraw his proposition; I want upon it a vote.

Mr. J. D. PIERCE—I wish to correct the gentleman in one respect. This was no part of the Jewish law; it existed long prior to the Jewish code. It was subsequently adopted in the Jewish code; but it was given to the whole family of man, not particularly to that race. As to the principle involved, I shall not at present take up the time of the Convention in discussing it. I have my opinions with regard to it. I think it is an important sub-

ject. A large portion of the people of the State, are in direct hostility to the principle; and my objection to it is this, that placed in the constitution, it will array a hostile feeling against the constitution itself. The principle is undergoing discussion, and the people of this State will come to a decision upon this matter; either sustain the principle or not. There are various considerations to be taken in question, and it may well be doubted if it is proper to place it in the Constitution at the present time. I shall vote against the principle, but at the same time I shall take no action to support the other side of the question.

Mr. BUSH—I believe the law is backed up by public opinion. I believe that it will be a permanent principle in the State of Michigan. I think it ought to be placed in the constitution, and I shall vote against its indefinite postponement. My own impression is, that the support which has been attempted to be derived from Scripture authority, has been carried beyond its legitimate bearings.

The first murderer was Cain. He slew his brother under circumstances which peculiarly aggravated his crime, for Abel was righteous. What was his punishment? That he should be a wanderer and an outcast; but that whoso slew Cain should be punished. So that in the first instance, we find that the death penalty was not enforced. Nor was it so enforced until after the time that Noah planted a vineyard. And we find a prophetic denunciation in the Scriptures: "He that sheddeth man's blood, by man shall his blood be shed." It was speaking of the effect which would follow, and which does generally follow. The word "shall" had the same meaning as the word "will." It was so understood, and should be so regarded. By the Jewish code, if a bull gored with his horns, the bull was put to death. If the owner knew that he was wont to gore, the owner was put to death. But we find standing forth in the same decalogue: "Thou shalt not kill."

I am proud that the State of Michigan was the first State in the Union to abolish the death penalty; and we can say that the system now established works admirably, and fully sustains our position. What is the tendency of this mode of punishment?

It only hardens the community and makes them familiar with scenes of crime—makes them more criminal. This has been our experience. I never saw or heard of a public execution where it was not a matter among the crowd of revel and gayety. The effect was the reverse of a good effect upon the spectators.

Mr. FRALICK—I made this motion, thinking that it belonged properly to the Legislature. We have a law upon this subject. The question has been fully discussed by the people, and I am perfectly willing that it shall be left to them to act in the matter as their best judgment may direct. I do not think that it can be properly placed in the constitution.

Mr. MOORE—I do not believe it is necessary to place it in the constitution. I hope that it will be left to the Legislature.

Mr. HANSCOM—I am opposed to the introduction of this principle in the constitution, because I am opposed to the introduction of one single proposition in this constitution that is not needed. I am in favor of the principle, but I think that it can be sufficiently regulated by public sentiment.

Mr. BUTTERFIELD—I accord entirely with the sentiments of the gentleman from Oakland. There is no imperative necessity for incorporating this in the constitution, as we have a statute law on the subject; and it is our duty to place in this constitution no article that shall needlessly impede its adoption by the people. I hope it will be postponed; for, although it is our law, I know that in my county many persons are so prejudiced, that if the constitution was unexceptionable in every other respect, and contained this provision, they would vote against it. I have heard this repeated many times by men of intelligence and ability. Our present law is a mere experiment; it may, or may not be sustained by the people; but if it is, we have no need to engraft it here. I shall vote for the indefinite postponement.

Mr. N. PIERCE—It will take just as long to postpone it as to take a direct vote. If punishment does not deter crime, as some gentlemen argue, we had better abolish the State prison, for it certainly increases the expense of the State. I had supposed that punishment was for the purpose of reforming the criminal and helping to

maintain good order through the land; if it is not so, there is no reason for confining a man.

I will go as far as most people upon this question. I have suffered no injury from the wicked; but there are some reasons why it should not be abolished. If a man has committed rape, murder or arson, if every means had been tried for his reformation, and every means had failed, why should he not be *used up*? For the most atrocious criminal can, after a year or two, by the influence of friends, obtain a pardon from the Executive, to commence probably a fresh career of crime. What is the object of keeping him a tax upon the public while he lives, if he will not reform? If people think otherwise—if they say that punishment does no good, why, abolish it altogether.

Mr. BUSH—I will not detain the Convention more than a few moments. I did not intend to make another remark, but from the continued arguments here, I deem it my duty to make a reply.

The gentleman from Calhoun has attempted to carry out the idea that the advocates of this system were opposed to all punishment. I rise to correct the gentleman upon this subject, and tell him that experience has shown that it is necessary to punish; but there is a difference of opinion as to the extent to which punishment should be carried in certain cases. I will point out one to the gentleman's attention. Let an enemy attempt to take his life, and he would use every means of self-defence, even to the taking the life of his enemy, if compelled so to do. But let that enemy attempt to take his life, and the gentleman from Calhoun has thrown him bound and helpless to the ground; would he then take his life? He would not, sir; he would revolt from it. His sense of propriety would be shocked—he would not murder him in cold blood.

Sir, when a person raises his arm against the laws of the State, if it is necessary to take his life to secure him, it is right so to do. They must catch him where they can find him; but having caught and secured him, I contend that they have no right to take his life. From what source does community take its rights and powers to take life? It can but take the rights which individuals have yielded to preserve the

rights of society; but an individual has no right to take his life, or that of another. If, then, individuals cannot give that right, how can the community have that right? It cannot be taken except by that which is beyond that right, the law of self-preservation. Two armies meet, and much blood is shed; but if one is the conqueror, takes a portion of the other prisoners, and murders them in cold blood, the whole civilized world is shocked at the atrocity. Well, look at the laws of the State. One man is at war with the community. He is under their control. Yet they take him, and publicly execute him. They violate the solemn Covenant: "Thou shalt not kill." You have not the right to kill him; it cannot be delegated, for it does not exist. Human life is inviolate. He gave and He will take it away. I am not in favor of having him what the gentleman from Calhoun calls "used up," for it is not in accordance with the principles of justice and humanity.

The gentleman from Jackson thought it would endanger the constitution. If gentlemen had been as careful upon other subjects, it would probably have been as well for the interests of the people of the State. The gentleman from Calhoun has been much interested in placing in this constitution a large exemption law. Yet he said not a word then about the danger of the constitution, while voting for a measure that was in direct conflict with the vital interests of a large portion of the people of the State. On that and some other questions, there is danger of public sentiment. This is a matter of mere expediency alone, for it is now a part of our law.

Some great questions have been so tied up that no legislative action can be had upon them. I am in favor of this measure; although in one sense I have but little reason to care, for I firmly believe that it is as permanently fixed in this State, as the constitution of the State itself. I think that it is a beneficial provision—that it is humane—that we should not take the attributes of Divinity—that we should recollect that He who made us is a God, long suffering and gracious, abundant in mercy and truth.

Mr. BAGG—I rise merely to give a reason why I shall vote against indefinite postponement upon this subject. I am in

favor of this, because I believe that vengeance belongs to a higher power, and there it ought to be left. When we had capital punishment by law, we must remember that the attempts to try criminals has cost this State a great deal of time and a great deal of money. Public sentiment is so opposed to life being taken, that I shall vote for it being placed in the constitution; and as far as the question of its acceptance by the people is concerned, it matters not to me whether it is received or not. I have but one guide; that is the dictate of my own judgment. What I think right to be placed in the constitution, for that I shall vote.

Mr. McCLELLAND—I do not rise to present an argument for or against capital punishment. I have no doubt that those who wish it inserted in the constitution act from pure motives; from feelings of the highest humanity. But I would submit to them whether the law now in force is not sufficient to answer the purpose; or whether there has been any indication on the part of the people to repeal the law. Again, I would submit whether cases may not arise in which it would be absolutely necessary to take human life. The contingency may never occur; but we may have insurrection or war, rendering it absolutely necessary to be taken away. It is better to leave this to legislative action. It is now the law of the land; and until it is fully tested, I would give the people power to rescind it or not.

Mr. WOODMAN asked five minutes time of the Convention. The committee of six who reported this article were unanimous in their opinion respecting the abolition of capital punishment. We consider we have not been treated with the respect that has been given to other committees. We have taken but little time in this Convention making speeches, and we want this question brought up—we want to record our votes, and we ask it as a privilege. I ask the gentleman from Wayne to withdraw his proposition, that it may not be indefinitely postponed.

Mr. McCLELLAND—When I vote for or against an indefinite postponement, I consider that I am voting for or against the article. I believe it is so understood. The gentleman appears to censure the members. I do not see with what reason.

Mr. WOODMAN—I do not censure the gentleman from Monroe. But it is an important question, and I claim that the committee be treated with due respect.

Mr. LEACH—I do not wish to insert capital punishment in this constitution, as there is no probability that the law on the subject will be changed. I am therefore content that the law shall stand as it now does.

Mr. COMSTOCK thought that the question of capital punishment sustained a relation at the present time that imprisonment for debt did a few years ago. The latter question was settled by the advancing intelligence of the age, and he had no doubt that the former would be in a similar manner. He wished to record his vote in favor of its abolition.

Mr. WILLIAMS was in favor of the abolition of capital punishment; but did not want it placed in the constitution.

Mr. GALE—It seems rather fashionable for gentlemen to give their opinions, and I hope the Convention will hear me. I shall vote for this principle. My mind is made up on this subject, and I shall vote for it; and although I wish the subject had not come up at the present time, and think, with others, it has come up with a great deal of impropriety at the present time, yet I always wish to record my vote in favor of the principle. A man cannot delegate that which he does not possess himself. He cannot delegate the right to take his life, either to another person or the community; neither is it necessary to take the life of a criminal by way of punishment.

Mr. KINGSLEY said—It may not be understood by all the Convention that there is still one crime recognized by the laws of this State, the commission of which is punishable with death. It is the crime of treason against the State. That crime has never been committed within this State, yet it may be committed. Within the next sixteen years we may be engaged in a war with England—we are near her possessions. In such a war, which is not at all impossible, we may find in our midst those who will aid the enemy; traitors who may aid in the war against us. They may be so numerous that the state prison would not hold them. It may then be necessary to put in force the law we have.

The law, as it now exists, is a mere experiment. There is no danger of its alteration, unless there should be a necessity for it. Catharine of Russia abolished capital punishments by law. The law remained in force for twenty years, but necessity compelled her again to resort to capital punishments to check the increase of crime in her dominions. Boccacio, on crimes, furnishes this piece of history.

No one will vote against the constitution we are framing, if we leave out this provision. Many men may be induced to vote against it, if we insert it. I am willing the law shall remain as it is. It never will be altered unless the public good requires it. Public sentiment does not require us to adopt this provision. We should not adopt propositions of doubtful utility, which are not called for. Indeed, the principle proposed to be engrafted here, is not so fully established to be right, as to entitle it to a place in the fundamental law of the State.

Mr. CORNELL conceded the principle, but hoped as it was on the statute it would not be placed in the constitution; there might a contingency arise that might make it necessary to take life; he hoped not, but it might occur.

Mr. N. PIERCE—If the Convention does not postpone, I wish to amend the report of the committee.

Mr. AXFORD moved the previous question, but the call was not sustained.

The yeas and nays were ordered on the motion to postpone indefinitely, and the result was as follows:

YEAS—Messrs. P. R. Adams, W. Adams, Axford, Alvord, Anderson, Beardsley, Ammon Brown, Butterfield, Carr, Chandler, Choate, Church, S. Clark, Conner, Cornell, Danforth, Fralick, Gibson, Green, Hanscom, Hart, Harvey, Hascall, Kingsley, Leach, Lovell, McClelland, Moore, Mowry, Roberts, Robertson, E. S. Robinson, Skinner, White, Whipple, Williams, President—37.

NAYS—Messrs. Bagg, H. Bartow, Britain, Asahel Brown, Bush, Comstock, Cook, Crouse, Daniels, Dimond, Eastman, Eaton, Gale, Lee, Morrison, Mosher, Newberry, Orr, N. Pierce, Prevost, Rix Robinson, Soule, Storey, Sturgis, Town, Warden, Webster, Woodman—28.

So the article was indefinitely postponed.

The PRESIDENT announced the following communication:

"Mr. J. Coates respectfully resigns his appointment as Reporter to the Convention."

And the same was laid upon the table.

On motion of Mr. COOK, the article entitled "Finance and Taxation" was taken from the table, and the question being upon concurring in the amendments made in committee of the whole,

On motion of Mr. BRITAIN, the substitute for section one, reported by the committee, was amended as follows:

Strike out in the second line, "and of the balance of," and insert "the principal and interest of."

Also, strike out from lines three and four, "until the 1st day of January, 1852," and insert "until the extinguishment of the State debt, other than the amounts due to the primary school, university and other educational funds."

Mr. McCLELLAND—I want to ask how the gentleman from Berrien provides for the State debt. There is such a vagueness about this proposition that I cannot see what the intention is. I want something which will clearly show our determination to pay the State debt itself; and I am afraid that the construction will be that the interest merely has to be paid. I think the State debt should be extinguished before any diversion of the funds is allowed; for, if I understand the matter correctly, a great many of these specific taxes arose from sources that were pledged for the payment of the State debt; and I am opposed to diverting the funds from that purpose.

Mr. BUSH—If gentlemen will look at the session laws, they will find a provision like this: "The proceeds of all rail roads and canals constructed by the State, the interest of all loans made by the State from the internal improvement fund, and dividends from bank stock shall constitute a sinking fund for the principal and interest of the State debt."

The provisions of this law are written not only on the statute book, but also on the face of every one of the bonds. If gentlemen are anxious to carry out the pledged faith of the State, they will strike out the whole section.

Mr. WHIPPLE—I should be glad if the

chairman of the committee would state whether any of these specific taxes are pledged for any portion of the debt that the State now owes. If that is so, I shall be glad to know it.

Mr. BRITAIN—In answer to the gentleman from Monroe, I am happy to say that the article under consideration must, in one respect, meet his approbation. It specifically provides for the payment of the principal of the State debt. To the gentleman from Berrien I would say, I do not know that the specific taxes are now pledged for any thing except the payment of the interest on the primary school and university funds. If they are pledged for other purposes, I have not learned. The interest on the State debt is about \$140,000. The interest on the primary school and university funds is about \$17,000. The specific tax for 1849, amounted to about \$19,000; but in 1852 will amount to \$70,000; and unlike other amounts accruing to the treasury, its receipt can be depended upon when due. As the principal of the various educational funds had been applied in payment of State indebtedness, and as the great interests of education imperiously demanded the prompt payment and distribution of the interest due its various funds, it was thought advisable to secure this desirable end by appropriating for that purpose the most reliable fund of the State, to wit: the specific tax fund; and I am satisfied that gentlemen, upon reflection, will approve of this arrangement, because they will at once see that it is more important that the interest accruing to the educational fund be promptly paid, than any other debt which could be due from it.

Mr. FRALICK—When in order, I propose to offer a substitute for section 1.

"The Legislature shall provide for an annual tax, sufficient, with other sources of income, to defray the estimated expenses of the State for each year, including the interest on the debt of the State; and whenever the expenses of any year, including such interest, shall exceed the income, the Legislature shall provide for levying a tax the ensuing year, sufficient, with other sources of income, to pay the deficiency, as well as the estimated expenses of such ensuing year, including such interest."

This substitute, (said Mr. F.) if adopted,

will leave the specific taxes and all others, where they properly belong, and as heretofore provided by law. It makes a general obligatory provision that the interest of the entire State debt, including the interest on the debt to the different educational funds, shall and must be paid from year to year.

If any deficiency should occur in any year, in the payment of the interest of the entire State debt, including the amount set apart for a sinking fund, and the current expenses of the State, it makes it obligatory upon the Legislature to levy an additional tax the ensuing year, to make up said deficiency. If this course is adopted it will not only make ample provision for the payment of the indebtedness of the State, and the interest thereon, together with the expenses of the State, but will also give the people of the State the satisfaction of knowing that their faith has been kept inviolate to their creditors; and which would not be the fact if the section as it now stands in the article is retained; as by that the specific taxes would be diverted from the fund to which they have been heretofore pledged by the State.

After the State debt is paid, I have no objection to the Legislature's appropriating the specific taxes in any manner they shall judge the best interests of the State will be promoted; but, until that debt is paid, or the amount other than that owing to the educational funds, is paid, I consider the faith of the State pledged not to divert these taxes, more particularly the specific taxes upon the rail roads in the State, from the payment of both principal and interest of said debt. And, in my opinion, any such diversion as anticipated in the section I propose to strike out, would be a violation of the faith of the State.

It is provided in the second section of this article that a sinking fund shall be formed for the purpose of paying and extinguishing the principal of the State debt. I want this substitute adopted, so that the Legislature may not be precluded from using all the ordinary means of the State, as well as the power of raising a direct tax for the purpose of discharging the calls upon the treasury of the State, as provided in the substitute, and for the formation of said sinking fund; which they cannot do if the section as it now stands in

the article is not amended or stricken out.

This question was discussed at length in the committee whose chairman reported the article, and the principles of the substitute were agreed to by a majority of the committee, as I understood; and myself, as well as others of the committee, were surprised and disappointed by the manner in which the chairman drew up the first section of the article in his report; and it is my opinion, had the section been drawn containing the principles of the substitute, it would have saved two days of the time of this Convention; as I am confident this Convention will never adopt this article unless the main principles of the substitute are inserted, and thereby secure the faith of the people of the State from jeopardy or violation.

Mr. WHITE—I am at a loss how to proceed. When we look at the subject, and see the various projects that emanate from the chairman of that committee, it throws a doubt over my mind whether we are proceeding correctly or not. I wish to act in this matter understandingly. I wish to act for the best interests of the people of the State.

I think that, as the fourth proposition has come from the gentleman, the proper way will be for him to give us some data to act upon; that we may not thus vote in the dark. I would ask if he has made no examination with regard to the resources of the State; what they are, what they will be? We have seen no statistics—no means of obtaining correct information; and I deem that information essential to every member in this Convention.

I want to vote understandingly on a matter of this vital importance. The good faith of the State depends upon our action. If the chairman of this committee is not prepared to sustain his positions, I hope the Convention will take some other course with respect to this matter.

Mr. FRALICK—By the amendment made by the delegate from Berrien, the entire amount of specific taxes, now and hereafter to be collected, will go into the primary school and university funds; and those taxes will be diverted from the purposes to which they have been heretofore pledged, and the whole amount of the deficiency will have to be made up by a direct tax, as the amendment provides that

these specific taxes shall be distributed from year to year, with the regular proceeds of the school fund: which taxes will undoubtedly increase to a large amount in a few years, but will afford, under this amendment, no adequate relief to the tax payers of the State. For they will have been diverted from their proper course, the general fund, and the whole amount of the interest on all the State debt, the amount set apart for a sinking fund, together with the current expenses of the State, will have to be made up by a direct tax upon the property of the people of the State. This will make a very heavy direct tax; and if the people complain, as most assuredly they will, they cannot correct the evil without an amendment to the constitution. For these, and many other reasons I might assign, I am opposed to the amendment, or of diverting these specific taxes from the fund where they properly belong.

Mr. CHURCH proposed the following substitute for the one reported by the committee:

"All specific taxes, save those received from the mining companies organized in the upper peninsula, shall be applied in paying the interest upon the State indebtedness; and to the payment of said indebtedness, (save that in favor of the several educational funds,) until the full extinguishment of said State indebtedness, at which time the said specific taxes shall be added to, and forever constitute a part of, the proceeds of the primary school fund."

Mr. C. said—This substitute differs from others in appropriating to one purpose these specific taxes, for the payment of the interest and principal of the State indebtedness, that was contracted for the purpose of prosecuting the internal improvement of the State.

If the general fund has run in debt to the school or university fund, it can be otherwise taken care of. If there is a debt which we are bound to hold in particular regard, it is the debt contracted for internal improvements. This is all that I think necessary. I do not want it encumbered with other provisions. I think in its present shape it is more intelligible and direct.

Mr. CORNELL would ask the gentleman from Kent what advantage this substitute had over the original section?

Mr. CHURCH—It makes a distinct provision for a debt that we have incurred by an attempt at prosecuting a magnificent system of internal improvements, and it leaves the indebtedness of the general fund to take care of itself. The Legislature can make provision for that; but I want the specific taxes, except those I have reserved, distinctly applied to the payment of the State debt. My object is to have a plain, simple, direct proposition to effect that object.

Mr. CORNELL would inquire why the specific taxes in the upper peninsula should be excepted?

Mr. CHURCH—It is small at present, and is, if our information is correct, needed for the support of the town and county governments. That being the case, they should be returned in the manner that the Legislature thinks best. They may appropriate it in part, or to such counties as may need it the most.

There has been a demand for a separate organization in the upper peninsula; what kind of government does not yet appear. They may need a distinct sum given for the purpose of internal improvement. The canal around Saut Ste Marie may yet become a State work. It is but a small sum, and there are various considerations that suggest the propriety of leaving this matter apart from the other specific taxes. It would not swell the amount much larger in the aggregate sum; while, by including it with the rest, we may be committing gross injustice to the people of the upper peninsula.

Mr. BRITAIN—I see an objection to the principle of a separate arrangement for the people of the upper peninsula. Gentlemen will always find me willing to do what is right with regard to the people of the upper peninsula; but in establishing a general rule I cannot except them. They are entitled to as much attention as other portions of the State, and no more. If charters exist in the upper peninsula that are detrimental to their interests, the evil may be remedied some other way; but when we are legislating for the people of the State of Michigan, let us legislate for the whole State.

There are other reasons why I am not in favor of the substitute of the gentleman from Kent; but if this was all the objec-

tion that could be brought against it, I should still be opposed to it. He proposes to make these specific taxes appropriated only for the interest and principal of the State debt. Are we under any obligation to do so? Are we bound by any principle of good faith to do so? I think that no gentleman in this Convention can show that we are. Sir, we have, as already stated, applied the educational funds in payment of the State debt, and we are at liberty to pursue that policy with the specific taxes which is best calculated to advance the interests of the State.

With regard to the second proposition of the gentleman from Kent, the State is constantly receiving the principal of the university and primary school funds. Does the State not apply it to the payment of the interest of the State debt? And I would ask if it can be applied to a better purpose? It does not come in with perfect regularity; but some years more, and some years less, on account of being dependent upon the sale of lands. There might be a difficulty in paying the interest of the primary school and other educational funds from these receipts, on account of this irregularity.

Well, if the State is in the constant receipt of the primary school and other educational funds, which she applies in payment of State indebtedness, I would ask if by this plan the obligations of the State are not fulfilled? Is not its duty performed? Then, for what reason do we want the substitute of the gentleman from Kent? And why not at once specify that we will pay the interest accruing to the educational funds out of the specific taxes, for the simple reason that the receipt of them is regular, and the educational funds can with safety depend upon them for the payment of their interest when due? So long as the State can thus secure to these funds the payment of interest due to them, without injustice to the holders of State stocks, I can conceive no reason why we should not, and I hope the Convention will, do it. I believe that we are bound by every consideration of duty to do so; and I think that any change would be a retrograde change instead of an advance. I hope that we shall not legislate for any one part of the country, but for the whole of the State of Michigan.

Mr. WILLIAMS disagreed with the gentleman from Kent [Mr. CHURCH] in toto. In the first place he denied that there was one obligation of the State more sacred than all others, and that the State debt proper. The general indebtedness was in the nature of an ordinary debt arising on contract, while the debt to the primary school fund was for a trust fund—an obligation always regarded as sacred. Not only would it be incumbent on the State to pay the interest on this trust, but the principal also, before any other debt whatever. The least we can do is to use all specific taxes to pay interest on the educational trust funds.

The gentleman gives as a reason for excepting the specific taxes raised on mining companies in the Upper Peninsula, that the specific tax is in lieu of all other taxes, for county and town purposes, and therefore being exempt from taxation there, the specific taxes should be refunded to the Upper Peninsula. Now, I am informed that the Treasurer of the State is in possession of a written opinion of the Attorney General that some or all of those companies are subject to local taxation, in spite of the specific tax. If so, the gentleman's argument all falls to the ground.

I am in favor of appropriating all specific taxes, which can honestly be so used, to the payment of interest on these sacred educational funds.

[Mr. WHIPPLE next made a few remarks.]

Mr. J. D. PIERCE was much obliged for the statements of the gentleman from Berrien, [Mr. WHIPPLE;] he was satisfied from the statements that it was perfectly competent to adopt the substitute of the committee of the whole as made this morning. We have in good faith appropriated the gross amount of the public works for the payment of the public debt. We have done more; we have used the educational funds for the payment of the public debt; now we propose to take the specific taxes, leaving the trust funds entirely unprovided for. I am perfectly satisfied that it is entirely competent to adopt the amendment.

On motion of Mr. ROBERTS, a call of the Convention was ordered, and Messrs. ARZENO, BARNARD, J. BARTOW, BEARDS-

LEY, BURNS, DESNOYERS, LEACH, PREVOST, and STURGIS were absent without leave.

Mr. BUSH asked and obtained leave of absence for Mr. BARNARD.

Mr. EATON for Mr. DESNOYERS.

Mr. J. D. PIERCE moved that all further proceedings under the call be dispensed with; but the motion was lost.

On motion of Mr. ROBERTS, the Sergeant-at-arms was dispatched for the absentees.

Mr. McCLELLAND—The argument assigned by the gentleman from Berrien, contains good and sound reasons. I have understood that the Attorney General has given an opinion relative to the charters of the mining companies in the upper peninsula. That his opinion was that it relieved these companies from a tax upon the real estate, though not upon the personal property. I voted to except the mining companies, and shall do so again, so that the matter can be left to the Legislature. I shall vote for the amendment as proposed by the gentleman from Berrien. I cannot, under the circumstances, vote for the substitute of the gentleman from Kent. I want this other educational fund protected, so that the Legislature will have nothing to do with it. Adopt the suggestion of the gentleman from Berrien, or I am fearful they will be levying it at discretion.

Mr. J. D. PIERCE—There are nineteen charters on which real estate may be taxed for township and county purposes.

Mr. HANSCOM said the Chief Justice had given reasons why the specific taxes should be placed in the general fund. The faith of the State was pledged to that course. It was a mere matter of expediency, as far as the other interests were concerned, to place these specific taxes apart for that purpose. The State might do it on that ground, but was not bound so to do.

Mr. BRITAIN—Mr. President, if my worthy colleague who read to us a few minutes ago, the act under which the five million loan was made, pledging the dividends of all banks and the proceeds of all rail roads and canals for the extinguishment of said debt, was correct in his inference, that "the dividends of all banks and the proceeds of all rail roads and canals, covers all the specific taxes upon banks, rail roads and canals," then, of course, these taxes should be so applied; and the Legis-

ature have broken faith by applying them to the payment of interest on the educational funds. But, sir, before we surrender control over these funds, so obviously required by public interest to be set apart for the payment of interest on the educational funds, should we not endeavor to ascertain whether such was really the fact?

Sir, notwithstanding my great respect for the opinions of my colleague, when deliberately formed, I think in this case he has merely glanced at the subject; and that by his commendable anxiety to maintain inviolate the faith of the State, he has been drawn into an erroneous conclusion. Sir, I was a member of the Legislature which framed that law; and I have not the most distant recollection of any such understanding of it at the time; nor do I now think that the language of the law and the practice of the State admit such a conclusion.

Sir, the State was collecting specific taxes from banks at the time, and if they were intended to be included why are they not named in the law? or if the law was supposed to cover them, why were they not immediately so applied while the law and its object were fresh in the recollections of the various officers of the State?

Now, Mr. President, let us examine the law, and, if possible, see what it does mean: "The dividends of banks and proceeds of rail roads and canals," certainly does not mean the specific taxes collected either from banks, plank roads, or mining companies, if the taxes paid by these companies are under our control; and those collected from rail roads and canals are only involved in doubt. Now, sir, let us suppose that some gentlemen had purchased a farm and agreed to pay \$3,000 for it in five years, and to pay upon it all the proceeds of the farm until it should be paid for. If at the end of three years he sells the farm for \$2,500, and pays the same over in good faith, together with the proceeds of the three years, amounting in all to \$2,800, has he not so far fulfilled his contract in good faith? And what, if after he had sold it, a tax had been collected upon it by the government; could that tax be considered a part of the proceeds of the farm, and he accused of bad faith, because he did not pay that amount to the original owner also? Sir, I trust not; and I think that the two cases are parallel; and I be-

lieve also that when the State sold the rail roads, and faithfully applied all the proceeds of the sale in payment of the State debt, she fully and entirely fulfilled that part of the law which required her to apply the proceeds of the rail roads in payment of the debt created by the five million loan.

Mr. WHIPPLE—The State meant the dividends, for it never dreamed at that time of selling the railroad.

Mr. CORNELL—I would ask the Chief Justice a question. I owe an individual money—I cannot pay him—I borrow money to pay part, with the promise that I will repay to the lender as soon as money comes in my possession—I ask him which I am bound to pay first, the old debt or the man that lent me the borrowed money?

Mr. WHIPPLE—We have borrowed money first from the internal improvement fund, subsequently from the school fund. We are bound in equity to first provide for the older debt; that is the rule. The older equity will prevail.

Mr. CORNELL—The specific taxes had no existence at the time the first money was borrowed. Shall we take these specific taxes that were then not thought of and apply them as a matter of right to the first debt?

Mr. HANSCOM would ask if the present indebtedness was not a balance due on the five million loan? Have we absolved ourselves by appropriating the proceeds of the sale to that debt? Have we met the provisions of the law? The answer will easily be seen, when a part of that sale was this very specific tax—that was a consideration in the sale, that this tax should be paid yearly into the treasury of the State. Is it not then clearly a part of the proceeds arising from the sale of this very road? I, for my part, do not see the difference.

Mr. BRITAIN—I do not see that a specific tax paid the State by a railroad for its protection, is any more the proceeds of such railroad than a tax upon a horse, which I might have sold five years ago, is a part of the proceeds of such horse. It is no part of the profits or of the proceeds of the horse in one instance, nor of the railroad in the other.

Mr. President: as there is now no business formally before the Convention, the

absentees not yet having been brought in under the call, I beg permission to explain a matter of some consequence to the State, and thus avoid detaining the Convention when it shall be engaged in business.

The Convention was a few days since honored with a resolution of the common council of the city of Detroit, respectfully requesting the incorporation into this constitution of a provision to prevent banks, railroads, and other incorporations from being exempted from municipal and county taxes. The committee on finance and taxation, to whom this resolution was referred, instructed me to report the Article on Finance and Taxation, as a full report upon all the various propositions which had from time to time been submitted to them; but as the gentleman from Wayne [Mr. GOODWIN] seems to desire a more formal report, I beg permission in this way to explain the opinions which prevail with a majority of the committee, and which have governed any action of mine in the premises.

This exemption from municipal and county taxation seems to have been incorporated into these charters, for two purposes:

1st. For the benefit of the stockholders, and for the express purpose of relieving them from the fluctuations of township and county taxes, and from the inconvenience of attending to the assessment and collection of taxes in each of the townships through which they run. This exemption is not only regarded by the stockholders as one of their most valuable immunities, but is secured to them by one of those unalterable laws for which the gentleman from Wayne and other gentlemen of the legal profession entertain so much respect.

2d. To make the State realize from such corporations the largest practicable amount to its treasury. I do not now propose to enter upon an investigation of the inviolability of the grant; but leave that to gentlemen more learned in the law, and confine myself to an examination of the justice and policy of the second proposition; in doing which, I propose to ascertain the character of each of the corporations in question.

1st. I propose to examine a rail road company. Its charter can only be granted by a constitutional majority of the representatives of the whole people; and is only granted upon the earnest solicitations of

the inhabitants of the "cities and counties" through which the charter extends. You grant them the charter and surrender to them the carrying trade of the country through which the charter extends, at the solicitation of its inhabitants, for the alleged reason that the interests of said inhabitants will be promoted by having their carrying trade more cheaply, expeditiously and safely done than they can do it themselves upon their own common highways. In granting these charters, you always endeavor, though sometimes unsuccessfully, to secure these benefits to the people; and the company chartered always promise them, whether the charter secures them to the people or not, and generally contend that the charter does secure them.

The people asking the charter expect further advantages from it. They expect that the promised facilities for travel and transportation will draw through their section of the State the trade and travel of other and less fortunate portions of the State; that the value of their farms and the commerce of their cities, and, in fact, that their wealth and general influence will be increased.

Now, sir, if the State, by granting a rail road charter, has advanced the interests of that portion through which the charter extends, beyond that of any other portion of it, and perhaps to the prejudice of other portions of it, is it not clear that, whatever tax the chartered company pays, should be paid to the common treasury for the benefit of the whole State; and would it not be as absurd to permit the cities and counties through which the charter extends to tax those whom the State has permitted to improve their commercial facilities, as it would be to permit a township to tax any valuable improvement upon one of its highways, made by the State or county?

If the State collect all the tax paid by such companies, are not the people at whose solicitation and for whose benefit the State permitted the roads to be constructed, highly favored, when compared with other portions of the State? The relations existing between plank road companies and the people will be found to be very similar to those existing between rail road companies and the people, to wit:

The legislature at the request of those interested permits a combination of capi-

talists to construct through the State, or between two given points in the State, a planked highway, upon which the business heretofore done upon the common highways can be more cheaply done by the people than upon their own common highways. This plank way, as in the case of a rail road, by its cheapness and facility of transportation, draws upon its own line the trade and travel of neighboring towns and thoroughfares, and thus increases the value of property, and the commerce of cities and villages, throughout its whole line. And may I not here again ask the question, if a plank road company be required to pay a tax upon the plank way which the State has, at the solicitation of the inhabitants along its line, permitted them to construct for the special benefit of such inhabitants, should it not be paid into the common treasury for the benefit of the whole State? And would there be any more propriety in permitting the towns and counties through which it runs to tax it for township and county purposes, than there would have been in permitting them to tax a government road, originally made for their special benefit, and perhaps now succeeded by this identical plank road? The only plea which could be made for taxing, in either case, must be that the road was not made with their money, and that they should be paid for protecting it; and it would be as equitable to take the people's money out of the treasury, in the latter case, as it would be to withhold the people's money from the treasury in the other.

But the gentleman from Wayne says there is a plank road entirely within the county of Wayne. Well, sir, what kind of charters have they? Are their charters confined to the county of Wayne? No sir, except in a single instance. The legislature would not grant such charters, and the persons who asked for the charters knew it. They therefore ask for charters for roads from Saginaw, from Lansing and other places to Detroit, with the intention, perhaps, of building the best portion of it, and forfeiting the balance. Now, sir, should this entitle the county of Wayne to a tax upon those roads, because they have not been extended beyond her limits? Is not a failure to build a violation of faith, and a fraud upon the people; and ought it

not to put the seal of disapprobation upon those legislatures who have permitted companies to neglect all but the best portions of these roads, without securing to others the privilege of building the balance and becoming stockholders in the whole road?

Let us see, Mr. President, what the operation would be. A farmer starts from Lansing with thirty bushels of wheat; he travels on common roads to within twenty miles of Detroit, and could have completed his journey upon common roads with equal facility; but here he finds a plank road built by some catch-penny, just far enough out of the city to come the grab upon the concentrated travel, and he must now pay toll without the least possible benefit. Had the road been built to Lansing, as per charter, he could have carried sixty bushels of wheat, and traveled with more rapidity. Should this imposition entitle the county of Wayne, and the city of Detroit, whose inhabitants perhaps own this stock, to tax it for municipal and county purposes?

Mr. President, let us now endeavor to ascertain the relation subsisting between banks and the people. A bank claims to be a State institution—to have received its authority to do business from the people of the whole State—to have been created for the purpose of aiding the commercial business of the whole State. The whole State does business with them; and if a bank fails, the loss must be sustained by the bill holders of the whole State. Many persons have to incur the fatigues and expense of long journeys to transact business with them, while those in the vicinity of the bank can do it at home. Now, Mr. President, are not the places in which these public institutions are located the favored portions of the State, even though they be not permitted to tax them for municipal and county purposes? And can there be a single reason given why the entire amount of tax paid by them should not go into the common treasury for the benefit of the whole State?

The relation existing between mining and manufacturing companies and the State, seems to be of a different character. They merely ask a corporate name to enable a number of individuals to carry on an industrial pursuit. They are not in any way responsible to the public for the per-

formance of any services, nor in fact have they anything to do with the public, or the public with them. It is proper, perhaps, for the Legislature to stipulate with them in their charters for the payment of a specific *State* tax, but it is certainly an outrage upon the rights of the people with whom they are located, to exempt them from the payment of municipal and county taxes. Wherever they have been so exempted, a portion of the tax collected should be returned to the proper counties for township and county purposes; but this wrong should, under no circumstances, in my opinion, be extended.

Mr. President, I have now completed the examination of the relation existing between these several corporations and the State, and also the pretension of counties and municipalities to the right of taxing banks, rail roads, and plank roads for municipal and county purposes; and the investigation has led me irresistibly to the conclusion that these institutions are emphatically public or State institutions, created by the authority and for the benefit of the State, and that they are responsible to and dependent upon the State. That they are privileged institutions, and should bear their full share of the burdens of government. That those portions of the State in which these institutions are located are highly favored portions of the State. That, as this favor is received from the State, the State has a right to specify the terms upon which it shall be received, and under this last right, to stipulate that all taxes paid by such corporations shall be paid into the treasury of the State, to lighten the burdens of taxation upon the less favored portions of the State. That the portions of the State in which these institutions are located are more highly favored than other portions of the State, even though they be not permitted to tax them for municipal and county purposes, and that they so consider it themselves. That the balance of the State owe it to themselves to persevere in the policy of collecting into the State treasury all the taxes paid by these corporations; and that when the city of Detroit or any other city or county shall gravely resolve not to receive the location of a bank, rail road, or plank road within its limits, unless permitted to tax them for municipal and county

purposes, it will be time for the State to consider what she will do.

Mr. President, I have been aware, from the beginning, of the readiness and pertinacity with which persons sustain a private interest at the expense of a public interest, and could easily see that the city of Detroit could unite with her various other plans, by which rail roads, plank roads or banks have been located, and take your legislature by storm, and even, perhaps, rob the people of their rights; and I have for that reason been anxious to see this matter settled in the constitution, now and forever, and save all expense of future legislation upon the subject; and I trust that the Convention will settle it, by giving these specific taxes to the State, and prevent future Legislatures from quarreling about their disposal.

The absentees appearing,

On motion of Mr. COOK, all further proceedings under the call were dispensed with.

On motion of Mr. HANSCOM, the Convention adjourned.

Afternoon Session.

The President called the Convention to order.

The article "Finance and Taxation" being under consideration, and the question being on the proposition of Mr. CHURCH, offered this morning, Mr. ROBERTS made some remarks thereon, when

Mr. McCLELLAND moved to amend the substitute reported by the committee, by inserting after "taxes," in the first line, the words "save those received from the mining companies in the upper peninsula."

Mr. BRITAIN said he would prefer that one-half per cent of the money received from companies paying one per cent in lieu of all other taxes, be retained for county and township purposes.

Mr. McCLELLAND—I want the whole subject left to the Legislature, as we cannot at the present time tell what is the proper policy. Although I have had a good deal of connection with the upper peninsula, when I was upon a different theatre, yet I must confess that I am entirely in the dark as to the best course to be pursued. We do not know what is necessary for that

section of the State; and while this uncertainty hangs over it, I am not willing to fix this definitely. I desire to leave it to the control of the Legislature, to be acted upon in future, and as will be conformable to the interests of the whole people of the State.

Mr. ROBERTS—I did wish that this matter had been left until the committee had made their report. In answer to the gentleman from Monroe, who has spoken in favor of postponing a definite action upon this subject with respect to the upper country, I say that we call upon this Convention to be definite. We want a perfect understanding as to our footing hereafter, or to be separated from you. That is what we demand, unless we can live with you on terms of equality, amity and friendship. We are yet but a child, but we have a strong frame.

Mr. BRITAIN—Great caution should be exercised with regard to this matter. The gentleman has exhibited with great clearness the condition of the country; and it is true that that country has had no benefits from the large expenditures in the lower peninsula.

Mr. McLEOD—Requisitions have been made for a number of years for grants of land, which have been given.

Mr. BRITAIN would like the gentleman to specify if any had been given.

Mr. McLEOD—Five hundred acres have been given to make a bridge path from Mackinac to Sault Ste. Marie.

Mr. BRITAIN—Any other?

Mr. McLEOD—You can talk about that quite a long while.

Mr. BRITAIN—The upper country has not been in a condition to receive grants. An appropriation of five hundred acres may have been given, but what does that amount to? But new relations are beginning to exist. The new settlements will have wants similar to those of other new settlements. They will want roads and bridges, and organizations, and they must have them; and for the next fifteen years they will draw from us, not we from them.

It would not be the gentleman's interest to divide the State now. What have the school funds received from the upper peninsula? Not one dollar to the acre. Yet the people of the upper country are

entitled to the same proportion as the inhabitants of the lower.

I am not aware how far there have been grants of internal improvement lands made there. I understood that the Secretary of the Treasury was unwilling that the State should lay its hands upon any lands in the upper peninsula.

Mr. HANSCOM said he thought the value was uncertain—that it would be unjust at the present time.

Mr. BRITAIN—No injustice should be done to that country; and I hope that every member will carry home with him and repeat the sentiment, that justice should be done to the upper country, whenever he may have an opportunity.

Is there any reason to adopt the plan of the gentleman from Monroe? He wishes to arrive at the same end as myself, but in a different way. I think that gentleman must see the danger of separate legislation. As one people, one organization, its claims will be stronger upon us, and there must be very many demands upon us from that portion of the country.

Mr. ROBERTS—I do not intend to take the proposition of either the gentleman from Monroe or that of the gentleman from Berrien. I will leave it to the judgment of the Convention, after explaining it as far as I can.

I wish to correct the gentleman from Berrien in one remark: that we shall call upon the lower peninsula for aid or assistance. We have nearly grown up—we have as yet received no aid or assistance; and we never shall get it unless we pay you in advance. You may take our money and hand us a part back, but you never will unless you take it in advance. All experience has shown this. The hard fate imposed upon us by the general government and the course of the State government have shown it conclusively. Can you give us our proportion of land? It is all located in the lower peninsula, and there is not an acre left. That in the upper peninsula was objected to, because they thought they might get five dollars per acre for them. The lands were located in Van Buren county, or Berrien county. We shall only be on terms of brotherhood when you give us justice and equality.

Mr. BRITAIN said there was no wish to oppress the upper peninsula. It was

judged best to locate the lands in the lower peninsula; but the upper peninsula was entitled to a proportion, with the claims which a new county always had and must have. He did not doubt the older portion of the State would cheerfully comply. If they wished to separate, this was useless.

Mr. ROBERTS—We have no wish to separate; but we wish that we should live on like brothers. We have our school lands, and I can point out one location that I can sell to-morrow for \$100,000. We are not therefore under the necessity of begging from the lower peninsula. We want to be placed on the same footing as the counties here, with respect to the money from the specific taxes: we might want half; we might in some instances want three-fourths. For the kind feeling that the gentleman from Berrien has shown, I thank him.

The amendment was carried, and Mr. CHURCH withdrew his proposition.

Mr. FRALICK offered the following substitute for the one reported by the committee for section one:

“The legislature shall provide for an annual tax, sufficient, with other sources of income, to defray the estimated expenses of the State for each year, including the interest on the debt of the State; and whenever the expenses of any year, including such interest, shall exceed the income, the legislature shall provide for levying a tax the ensuing year, sufficient, with other sources of income, to pay the deficiency, as well as the estimated expenses of such ensuing year, including such interest.”

But the same was not agreed to.

On motion of Mr. BRITAIN, the amendment of the committee was so amended as to strike out but the first sub-division of section one, and substitute as reported.

The amendments of the committee were then severally concurred in.

The article being up for amendment,

Mr. BUTTERFIELD moved to amend section eleven by striking out the words “of taxation,” in the first line, and inserting the following: “for the assessment and collection of all taxes.”

Mr. B. said—The object is simply to place resident and non-resident land on an equal footing. I ask for the yeas and nays.

Mr. FRALICK—Gentlemen seem to be in considerable of a hurry with this amendment. It is not noticed; but the effect will surely be that the entire tax must be closed in the township. Every tax roll must be closed there and then.

Mr. WHITE was not aware that such was the character of the amendment. He knew a case in Lapeer, where a young man who had paid his taxes regularly, had a stranger come with a tax deed; and although he could prove that he paid his tax, it cost \$50 to clear his land. Other instances he could cite to prove that the present system was unjust, unequal and oppressive.

The yeas and nays were taken, and the motion was lost, as follows:

YEAS—Messrs. W. Adams, Anderson, H. Bartow, Asahel Brown, Butterfield, Chandler, Gale, Green, Hart, Harvey, Leach, Moore, Morrison, Orr, N. Pierce, Sturgis, Webster, White, Williams, Woodman—20.

NAYS—Messrs. P. R. Adams, Axford, Bagg, Beardsley, Bush, Choate, Church, Conner, Cook, Crouse, Danforth, Daniels, Fralick, Gardiner, Gibson, Hanscom, Hascall, Kingsley, McClelland, Mosher, Mowry, Newberry, Prevost, Robertson, E. S. Robinson, Rix Robinson, Storey, Town, Warden, Whipple, President—31.

Mr. BRITAIN moved to amend by adding thereto the following additional section:

“Every act making an appropriation for purposes not provided for by this constitution, shall contain a provision for the necessary State tax to meet such appropriation, and a statement of the year or years in which said tax is to be levied; and said act shall, before it shall take effect, be submitted to the people at a general election, or at the annual township meetings, and be approved by a majority of all the votes given for and against it at said election or annual township meetings.”

Mr. B. said—There is no closing section in the article. There is no provision prohibiting the Legislature from appropriating money for any new purpose which they might choose, even if not named in the constitution. This prohibits the appropriation until sanctioned by the people; that is all that is meant by the section.

Mr. COOK—The proposition was sub-

mitted in committee of the whole, and was rejected, because it was thought to be impracticable. I am of the same opinion still. Take an instance: suppose a member of the legislature should die and funeral expenses be incurred; does this constitution provide for a payment of that description? Yet, by this section, it would have to go to the people, and be voted upon by them. It is necessary to give many powers to the legislature not specified in the constitution. It is a provision that ought not to be adopted.

Mr. BRITAIN—The common provision for the payment of the current expenses would cover that ground. I have no objection to give the Legislature all the power that is necessary. The Legislature of 1852 might appropriate half a million for the purpose of building another Capitol, or any other act equally rash and wild. The object was to submit this to the people, before it could be so appropriated. I want the yeas and nays.

Not a sufficient number voting therefor, the yeas and nays were not ordered.

The motion was not agreed to; and the article was ordered to a third reading.

On motion of Mr. J. D. PIERCE, the Convention then adjourned.

MONDAY, (48th day,) August 5.

The Convention met pursuant to adjournment and was called to order by the PRESIDENT.

Prayer by the Rev. Mr. TOOKER.

RESOLUTIONS.

Mr. McCLELLAND offered the following, which was laid upon the table:

Resolved, That this Convention will adjourn, *sine die*, on Monday the 19th inst.

Mr. WHITTEMORE moved to recommit the article on Elections to committee with which it originated, with instructions to strike out of section one, the words “and also every white male inhabitant who shall have resided in the State two years and a half, and declared his intention to become a citizen of the United States,” and that the article be reported back as amended forthwith.

Mr. LEACH moved to amend the proposition by striking out the word “white.”

Mr. McCLELLAND—Mr President: I

was not present when the discussion was had upon this article, and shall not attempt to re-open it. But I shall make a few brief remarks pertinent to the proposition now before the Convention. I am in favor of the instruction proposed by the gentleman from Oakland, [Mr. WHITEMORE,] believing that it will leave the article in a more acceptable shape.

The gentleman from Genesee [Mr. LEACH] has moved a further instruction to strike out the word "white," with a view to permit persons of color to vote. I am and always have been willing to submit this question to the people, and let them decide for themselves. Their decision will, I hope, end all agitation on the subject; and hence I shall vote for the resolution, which submits it in a separate form to the electors. I would do anything in my power, compatible with my duty as a good citizen, to ameliorate the condition of the blacks, and make them intelligent and happy. This, in my judgment, cannot be done in this way. I voted against the same proposition in the Convention of 1835, and the same reasons will induce me to do so again. I cannot agree to confer upon them the privilege of the elective franchise. No two distinct castes can exist in a country, without one being superior to the other. They cannot with safety be placed on an equality with the whites, either socially or politically. The granting the privilege asked for would be an entering wedge to a state of things to which I am irreconcilably hostile. I shall therefore vote against this instruction.

The motion to amend was lost by yeas and nays as follows:

YEAS—Messrs. H. Bartow, Asahel Brown, Chandler, Comstock, Daniels, Green Harvey, Leach, Lovell, Orr, N. Pierce, Prevost, Williams—13.

NAYS—Messrs. P. R. Adams, W. Adams, Alvord, Anderson, Arzeno, Bagg, Barnard, Beardsley, Britain, Ammon Brown, Butterfield, Carr, Choate, Church, Conner, Cornell, Crouse, Danforth, Eastman, Eaton, Fralick, Gardiner, Gibson, Hanscom, Hart, Hascall, Kingsley, McClelland, McLeod, Morrison, Mosher, Newberry, J. D. Pierce, Roberts, Robertson, E. S. Robinson, Rix Robinson, Skinner, Soule, Storey, Town, Walker, Warden, Whittemore, Woodman, President—46.

Mr. FRALICK moved to amend so as to instruct the committee to strike out section one, and substitute in lieu thereof as follows:

"In all elections, every white male citizen above the age of twenty-one years, having resided in the State six months next preceding an election, shall be entitled to vote at such election; and every white male inhabitant who was permitted to vote under the provisions of the previous constitution of this State, and their male descendants of the age aforesaid, having resided in the State six months next preceding an election, shall have the right of voting as aforesaid; but no such citizen or inhabitant shall be entitled to vote except in the township or ward of which he is an actual resident, and in which he has resided for ten days next preceding the day of election."

Mr. F. said he had not heard any fault found with the original provision in our constitution upon this subject; nor had he heard that it required to be amended; perhaps other gentleman had. The first section was fair and liberal. He thought that when a man became a citizen he ought to have the right of voting, and not until then.

Mr. WALKER suggested the propriety of not taking up and discussing over again, in a thin house, those questions which the minority had not succeeded in carrying in a full Convention. It seemed to him to be rather a curious mode of procedure to take up questions and discuss them anew, upon which all due deliberation had been previously had.

Mr. HANSCOM observed that there was a provision in the article which gave those coming from other places the right of voting, after they had resided in this State for a certain period. He hoped the gentleman would withdraw his proposition. The Convention had already given a full expression of opinion on this subject.

Mr. FRALICK did not desire to withdraw his proposition. He did not know that the gentleman [Mr. WALKER] had any right to impugn his motives.

The question being upon Mr. FRALICK's amendment, the yeas and nays were ordered thereon, and resulted as follows:

YEAS—Messrs. P. R. Adams, Ammon Brown, Church, Fralick, McLeod, Mowry,

Newberry, Prevost, Rix Robinson, Town—10.

YAYS—Messrs. W. Adams, Alvord, Anderson, Arzeno, Bagg, Barnard, H. Bartow, Beardsley, Britain, Asahel Brown, Butterfield, Carr, Chandler, Choate, Comstock, Conner, Cornell, Crouse, Danforth, Daniels, Eaton, Gardiner, Gibson, Green, Hanscom, Hart, Harvey, Hascall, Leach, Lee, McClelland, Morrison, Mosher, Orr, J. D. Pierce, N. Pierce, Robertson, E. S. Robinson, Skinner, Soule, Walker, Warden, Whittimore, Williams, Woodman, President—46.

The proposition of Mr. WHITEMORE was then rejected by yeas and nays as follows:

YEAS—Messrs. P. R. Adams, Ammon Brown, Butterfield, Danforth, Eastman, Fralick, Gardiner, Hanscom, Hart, Hascall, Kingsley, McClelland, McLeod, Newberry, Skinner, Storey, Town, Whittimore—18.

NAYS—Messrs. W. Adams, Alvord, Anderson, Arzeno, Bagg, Barnard, H. Bartow, Beardsley, Britain, Asahel Brown, Carr, Chandler, Choate, Church, Comstock, Conner, Cook, Cornell, Crouse, Daniels, Eaton, Gale, Gibson, Green, Harvey, Leach, Lee, Lovell, Morrison, Mosher, Orr, J. D. Pierce, N. Pierce, Prevost, Robertson, E. S. Robinson, Soule, Walker, Warden, Williams, Woodman, President—44.

Mr. DANIELS proposed the following:

Resolved, That no member shall occupy more than five minutes in speaking at any one time, either in Convention or committee of the whole, from and after this date, except by leave of the Convention or committee.

And the same was adopted—yeas 51, nays 6.

On motion of Mr. GREEN,

Resolved, That the committee on phraseology be instructed to inquire into the propriety of so altering the phraseology in the article on elections, as to make it unnecessary to refer to the constitution of 1835.

Mr. HANSCOM asked and obtained leave to introduce an article entitled "Judicial Department," as follows:

ARTICLE —.

Judicial Department.

Sec. 1. The judicial power is vested in one Supreme Court, in Circuit Courts, in

Probate Courts, and in justices of the peace. Municipal courts of civil and criminal jurisdiction may be established by the Legislature in cities.

Sec. 2. The Supreme Court shall consist of three judges, two of whom shall form a quorum, and the concurrence of two shall be necessary to every decision. And the Legislature shall have power, after the year 1855, to provide by law for the election of an additional judge of said Supreme Court; and also to provide that the concurrence of three of said judges shall be necessary to every final decision. And the Legislature may also provide that each of the judges of the Supreme Court shall be authorized and required to hold one term of the Circuit Courts in each and every year, in any of the counties of this State in which more than two terms of such circuit shall be annually held. The final decisions of the judges shall be in writing, and signed by those concurring; and a judge dissenting from a decision shall give the reasons for such dissent, in writing, under his signature.

Sec. 3. The judges of the Supreme Court shall be elected by the qualified electors, and shall hold their offices until their successors are elected and qualified.

Sec. 4. Of the judges of the Supreme Court first elected, one shall hold his office for two years, one for four years, and one for six years, to be determined by lot at the first session of the court after their election. Thereafter the judge elected to fill the office shall hold the same for the term of six years. The judge having the shortest time to serve shall be chief justice.

Sec. 5. The Supreme Court shall have a general superintending control over all inferior courts, and shall have power to issue writs of error, habeas corpus, mandamus, injunction, quo warranto, certiorari, and other original and remedial writs, and to hear and determine the same. In all other cases it shall have appellate jurisdiction only.

Sec. 6. The Supreme Court shall hold at least one term annually in each judicial circuit, at such time and place as may be designated by said court; and the Legislature may provide for the holding of the terms in each or either of the said circuits in each and every year.

Sec. 7. The Supreme Court shall have power, by general rules, to establish, modify, amend and simplify the practice in said court, and in the Circuit Courts.

Sec. 8. The State shall be divided into five judicial circuits; in each of which one circuit judge shall be elected by the qualified electors thereof, who shall hold his office for the term of six years, and until his successor is elected and qualified.

Sec. 9. The Legislature may alter the limits of circuits, or increase the number of the same; but no increase thereof shall be made except at the session of the Legislature first held after the apportionment of Senators and Representatives provided for in this constitution. No alteration or increase shall have the effect to remove a judge from office. In every additional circuit established, the judge shall be elected, and his term of office shall continue as provided in this constitution for the judges of the Circuit Court.

Sec. 10. The Circuit Courts shall have original jurisdiction in all matters, civil and criminal, not excepted in this constitution, and not prohibited by law, and appellate jurisdiction from all inferior courts and tribunals, and a supervisory control of the same. They shall also have power to issue writs of habeas corpus, mandamus, injunction, quo warranto, certiorari, and other writs necessary to carry into effect their orders, judgments and decrees, and give them a general control over inferior courts and tribunals within their respective jurisdictions.

Sec. 11. Each of the judges of the Supreme and Circuit Courts shall receive a salary, payable quarterly. They shall receive no fees or perquisites of office, or other compensation; and shall hold no other office of trust or profit during the term for which they are elected. All votes for either of them, for any office other than a judicial one, given either by the Legislature or the people, shall be void.

Sec. 12. The judges of the Supreme Court may appoint a reporter of their decisions. The judges of the Circuit Courts, within their respective jurisdiction, may fill vacancies in the office of county clerk, and of prosecuting attorney. But no judge of the Supreme Court or of a Circuit Court shall exercise any other power of appointment to public office.

Sec. 13. A Circuit Court shall be held at least once in each year, in every county organized for judicial purposes. In counties having a population of 15,000 inhabitants, by the last preceding enumeration provided for in this constitution, there shall be held not less than three terms of such court in each year, unless otherwise provided by law. Judges of the Circuit Court may hold courts for each other, and shall do so when required by law.

Sec. 14. The clerk of each county organized for judicial purposes shall be the clerk of the Circuit Court of such county, and of the Supreme Court when held within the same.

Sec. 15. Appeals and writs of error may be taken from the Circuit Court of any county, to the Supreme Court held in the circuit which includes such county, or, with the consent of parties in the cause, to the Supreme Court held in any other circuit.

Sec. 16. In each of the counties organized for judicial purposes, there shall be a Court of Probate. The judge of such court shall be elected by the qualified electors of the county in which he resides, and shall hold his office for four years, and until his successor is elected and qualified. The jurisdiction, powers and duties of such court shall be prescribed by law. And in counties having a population of less than 15,000 inhabitants, the Legislature may authorize and require the Circuit Courts to perform the duties of such Probate Courts.

Sec. 17. When a vacancy occurs in the office of judge of the Supreme Court, Circuit Court or Probate Court, such vacancy shall be filled by appointment of the Governor, which shall continue until a successor is elected and qualified; and when elected, such successor shall hold his office the residue of the unexpired term.

Sec. 18. The Supreme Court, the Circuit and Probate Courts of each county, shall be courts of record, and shall each have a common seal.

Sec. 19. The Legislature may provide by law for the election of one or more persons in each organized county, who may be vested with judicial powers, not exceeding those of a judge of the circuit court at chambers. In counties having a population of less than twenty thousand

inhabitants, by the last preceding enumeration provided for in this constitution, these powers may be devolved upon the judge of probate.

Sec. 20. The Legislature shall provide for the speedy publication of all statute laws of a public nature, and of such judicial decisions as it may deem expedient. All laws and judicial decisions shall be free for publication by any person.

Sec. 21. There shall be such number of justices of the peace in each organized township, not exceeding four, as may be prescribed by law. They shall be elected by the qualified electors of the township, and shall hold their offices for four years, and until their successors are elected and qualified. They shall have such criminal and civil jurisdiction, and perform such duties, as may be prescribed by law. At their first election in any township, they shall be classified by law in such manner that one justice shall be elected annually in each township thereafter. The legislature may increase the number of justices in cities.

Sec. 22. Judges of the Supreme Court, circuit judges and justices of the peace shall be conservators of the peace within their respective jurisdictions.

Sec. 23. The first election of the judges of the Supreme Court and judges of the Circuit Courts, shall be held on the first Monday in April, 1851, and for the election of judges of Probate Courts on the first Monday of April, 1853; and every two years thereafter, an election shall be held for one judge of the Supreme Court, and every sixth year thereafter, for judges of the Circuit Courts, and every fourth year thereafter, for judges of probate in such counties as by law are required to elect such judge of probate. Whenever an additional circuit is created, such provisions may be made as to hold the subsequent election of such additional judge at the regular elections herein provided.

Sec. 24. The removal of a judge beyond the limits of the jurisdiction for which he was elected, or of a justice of the peace beyond the limits of the township in which he was elected, shall vacate his office.

Sec. 25. The style of all process shall be: "In the name of the people of the State of Michigan." All indictments shall

conclude: "against the peace of the people of the State of Michigan."

Which was read the first and second time, referred to the committee of the whole and ordered printed.

Mr. WHIPPLE, from the committee on the executive department, to whom was referred the article entitled "Executive Department," with instructions "to inquire into the expediency of so amending said article as to provide for the election of Speaker of the House of Representatives by the people," reported the same back, deeming such a provision inexpedient.

The report was accepted, the committee discharged, and the report was agreed to by the following vote:

YEAS—Messrs. P. R. Adams, Alvord, Anderson, Arzeno, Barnard, H. Bartow, Ammon Brown, Bush, Butterfield, Carr, Chandler, Choate, Church, J. Clark, Comstock, Conner, Crouse, Danforth, Daniels, Eastman, Fralick, Gibson, Hanscom, Harvey, Mowry, N. Pierce, E. S. Robinson, Rix Robinson, Skinner, Soule, Walker, Whipple, President—33.

NAYS—Messrs. Baggs, Britain, Asahel Brown, Eaton, Gale, Gardiner, Green, Hart, Hascall, Kingsley, Leach, Lee, Newberry, Orr, Roberts, Robertson, Storey, Warden, Williams, Woodman—20.

Mr. EASTMAN called up his motion to reconsider the vote by which the article entitled "County Officers and County Governments" was passed.

Mr. E. said—I had, sir, intended to ask a recommitment of the article when it was taken up for its passage, and which, I believe, was well understood by my friend on my left, my colleague, the honorable chairman [Mr. RIX ROBINSON] who reported the article, and who, of course, has taken a very deep interest in the speedy progress of it, who anticipated my intentions by instantly springing the guillotine that cuts off the organs of speech, the previous question. I might have begged his indulgence to withdraw a moment, in courtesy; but divining the whole movement, about in its true light, I chose to throw myself upon the indulgence of the Convention by a motion to reconsider.

I have been honored with a personal acquaintance with the honorable Chairman, my colleague, for fifteen years—have known him while in the discharge of the

many, arduous, high and important posts of public trusts lavished on him by a confiding constituency. In his private walk I have had occasion to know him intimately, and am ready to confess, sir, that I have been and am now proud to claim him among my warmest personal friends. I have esteemed him as one of the noblest works of God, and have universally spoken of him as such—a gentleman of wisdom, honest integrity in all his relations in life as far as the frailty of even the best specimens of self-loving humanity will admit. I am sincere, truly so, in awarding these best of qualities to my friend, the honorable Chairman; and I really hope, sir, that this particular section nine in this act, reported by him, was engrafted there with *no other view* than to subserve the public weal. I should be truly sorry to have reason to think it had been so engrafted, so industriously fostered, carefully watched, and so suddenly sprung under the protection of the previous question by *my friend* from any other motives than such as have usually characterized his actions for disinterestedness and the promotion of the public good. I should be very sorry, sir, extremely sorry, to have the least occasion to think otherwise. I am sure he has in all things heretofore, like Cæsar's wife, stood above suspicion in my humble estimation. But, sir, in this single instance, there is a little mist hanging about my vision.

However, I do wish this particular section nine, relating to the removal of county seats, could be stricken out, or modified into some shape more unexceptionable than it now is. It has seemed to me that a portion of the members of this Convention have not duly considered its effect upon those counties where candor and common consent dictate that the present location is out of place—where a change of location is evidently called for. I can readily conceive that members coming from counties where their sites are *desirably* established, central or far aside, may be inclined to give an indifferent or an ardent support to this section, according to circumstances. I could instance several examples within my information, where we should expect gentlemen residing at or interested in valuable property in and about these sites that are situated on the extreme verge of counties, might naturally see nothing wrong in the

provisions of this section, but might even ardently advocate that no site, when once established, should ever be removed.

Others may feel very indifferent. The site in their county is centrally situated—every body is satisfied; and they may not see any harm in putting the matter at rest. There has been so much agitation, and it has cost so much, that it is better to “put on the screws,” and silence the business at once. This may seem very plausible, but will it stop agitation? Will it gag the oppressed into silence? Figure to yourselves a site on the extreme verge of a county, twenty miles from the centre, settled through its whole extent. Those in one half of the territorial limits are obliged to travel from one to twenty miles extra, every time they have occasion to visit their capital. This is no fiction. Sir, I am one of the number that now feels the reality of such a situation at present, and doomed to all future time to pay the penalty, if this section remains unmodified. I know of other counties similarly circumstanced, but the sufferers in this matter do not happen to have their advocates on this floor, I believe. It will be said, no doubt, why not remove the site, if it is so one-sided, so very onerous and oppressive to such a large portion of the people? Perhaps it may be removed in some very extreme cases. The official corps—the men of leisure and wealth—the business influence, with all the power that can be brought to bear within the sphere of one of these cat boils on the body politic of counties, (I think it was Jefferson that denominated cities as the *sores* of the nation,) together with all the competition and jealousy that will spring up or be fomented among the claimants around the central region, may not be sufficient in extreme cases to prevent a removal, where, perhaps, four-fifths of the people are sufferers. But, sir, with the odds enumerated, always in favor of the old location, it would be almost beyond hope to remove a site under any circumstances, even with a majority vote in favor of it.

I attempted to show, on a former day, that from the manner in which the new counties would settle upon the border first, their sites would almost unavoidably be aside from the proper place in after time. And I would ask—and seriously ask—if

it be the design of this Convention to chain down, for all time to come, the people of all those counties under the tyranny of this iron rule, deliver over by this fundamental Mede and Persian decree, two-thirds of the otherwise noble, independent yeomanry of these counties into the power of the one-third, constituted of the officials, with their retainers, that usually hover about these notable spots? Why not let the people, a majority of the people, govern themselves? What is there in this that we should infringe upon the first principles, the very spirit and essence of our free institutions? I have been always taught to believe that, in matters of common interest, a majority should always control—should always govern. I have yet to learn that any greater number is requisite, except in the grant of special privileges, money making corporations, and other exclusive favors. In all the counties all the people are on a common level, every one of them has an equal interest, a common interest in the location of their county site, and consequently should not be debarred from an equal voice in its location or relocation. Any other rule must then be esteemed unjust, anti-republican and tyrannical. Suppose every surveyed township in a county has its supervisor; a majority of the board—all other things being equal—would locate the site near the centre, geographically, but if the electors were largely to one side, whose approval must be had, there must be a compromise; it would be fixed nearer toward the populous centre; and this would be right enough for the time being. A majority of the board and a majority of the electors would be most likely to do right in the case. But I do think that the introduction of disinterested men to simply select the best point, to be confirmed or rejected by the people, is the better rule. I need not say more as it regards the right and equity of this matter—this is apparent. But, sir, is it good policy in us to make all the laws, tie up the hands of all future Legislatures, under the seeming impression that we alone are the people, and that all wisdom will die with us? Shall we not trust something to those who may come after us? Our doings are designed to be almost immutable landmarks—fundamental axioms. Should we not be very careful that we do not le-

gislate too much—that we do not undertake to impose general rules without sufficient knowledge of local bearings? This has been often remarked on this floor by the best talent here, while considering other subjects. Many other points that we have introduced into our new code will invite opposition. Perhaps a large majority of the people might acquiesce in this section as it stands. It may suit their interests; and if it do so, I believe they can very readily be reconciled to its justice and equity. But, sir, I speak advisedly when I say many votes will be given adversely to our whole code, whatever else of good it may contain, if this section is retained entire. For one, I should be glad to give my vote for it; and with this section modified or abolished, I see no reason as yet why I might not.

Now, sir, the common complaint among our common constituency is, that we are doing too much, spending too much time in legislating; they beg of us to make such amendments as were obvious and called for. Such as in the main we have made; leave the details for their special agents to attend to hereafter, from time to time, and finish up and come home, and not assume to act upon subjects that have not been canvassed by them; those that have not been agitated or considered, and upon which their wishes have not been expressed. But, sir, is not this just one of those subjects that have not been generally discussed, as it regards the propriety of its being among our fixed laws? It seems to me it is—that it is preposterous to attempt to impose this cardinal rule, immutably to bind and govern, and apply to all the changes and the invisible varying circumstances incident to our yet wild, but rapidly populating border regions. I think we should avoid every stringent rule that will endanger or jeopardize the rights or equal privileges of any of our constituents. I can see no such danger in omitting this section altogether; very far from that; but if retained, it might go far to secure the interests of some, and operate as a perpetual burthen on the just rights and equal privileges of many. In fine, sir, the provisions of this section (9) in this article, are truly despotic; just the spirit of monarchial governments—gag down the people, silence the masses; let the few who

enjoy the advantage of power, control the many.

Mr. RIX ROBINSON—I rise merely to reply to the statement made by the gentleman near me, my colleague, in regard to my having sprung the previous question on him; it is unfounded and untrue. He was sitting beside me when I moved the previous question; and if he had intimated to me that he did not desire me to make that motion, I would not have made it. The article was not arranged by me, but by a gentleman in the committee over which I had the honor to preside. I feel deep regret that my colleague should have made the charge against me which he has made.

Mr. COMSTOCK observed that this subject had been fully considered heretofore, and he hoped that the matter would not be reconsidered.

Mr. EASTMAN rose to explain in regard to the remarks of his colleague, [Mr. RIX ROBINSON.] He had not conferred with him on the subject. He conversed with his other colleague, who knew, probably, that he [Mr. E.] had a motion to make; and he rose at the same time that his colleague rose to move the previous question. That was put, and therefore cut off all remarks. He had not designed to hurt the gentleman's feelings, for he was certainly a man whom he had the honor to claim as amongst his warmest personal friends.

Mr. RIX ROBINSON observed that the charge was made too direct. The gentleman did not make any motion, nor intimate to him in regard to his [Mr. E.'s] motion.

The yeas and nays being ordered upon the motion to reconsider, were had, and resulted yeas 17, nays 46.

The article entitled "Executive Department" coming up, and the question being, "shall the article now pass?" the yeas and nays were had, as follows:

YEAS—Messrs. P. R. Adams, W. Adams, Anderson, Arzeno, Axford, Bagg, Barnard, H. Bartow, Beardsley, Britain, Ammon Brown, Asahel Brown, Bush, Butterfield, Carr, Chandler, Choate, Church, J. Clark, Comstock, Conner, Cornell, Crouse, Danforth, Daniels, Eaton, Fralick, Gale, Gardiner, Gibson, Green, Hart, Harvey, Hascall, Kingsley, Leach, Lee, Lovell, McClelland, Morrison, Mosher, Mowry, Newberry, Orr, J. D. Pierce, N. Pierce,

Prevost, Robertson, E. S. Robinson, Rix Robinson, Skinner, Soule, Sturgis, Town, Walker, Warden, Whittemore, Williams, Woodman—59.

NAYS—Messrs. Alvord, Eastman, Hanscom, McLeod, Roberts, Storey, Whipple, President—8.

So the article was passed, and under the rule referred to the committee on arrangement and phraseology.

The article "Of Elections" coming up on its passage, with the resolution accompanying the same, a division of the question was had, and the article was passed by the following vote:

YEAS—Messrs. P. R. Adams, W. Adams, Alvord, Anderson, Arzeno, Bagg, Barnard, H. Bartow, Beardsley, Britain, Asahel Brown, Bush, Butterfield Carr, Choate, Church, Conner, Cornell, Crouse, Danforth, Dimond, Eaton, Gibson, Hascall, Kingsley, Leach, McClelland, Morrison, Mosher, Orr, J. D. Pierce, N. Pierce, Robertson, E. S. Robinson, Soule, Sturgis, Walker, Warden, Williams, President—40.

NAYS—Messrs. Axford, Ammon Brown, Chandler, Comstock, Fralick, Gale, Gardiner, Green, Hanscom, Hart, Harvey, Leach, Lovell, McLeod, Mowry, Newberry, Prevost, Roberts, Rix Robinson, Skinner, Storey, Town, Whipple, Whittemore, Woodman—25.

The resolution was passed by yeas and nays, as follows:

YEAS—Messrs. P. R. Adams, W. Adams, Alvord, Anderson, Arzeno, Barnard, H. Bartow, Beardsley, Britain, Ammon Brown, Asahel Brown, Bush, Chandler, Choate, Church, Comstock, Conner, Cornell, Crouse, Danforth, Daniels, Eaton, Fralick, Gale, Gardiner, Gibson, Green, Hart, Harvey, Hascall, Kingsley, Leach, Lee, Lovell, McClelland, Morrison, Mosher, Mowry, Orr, J. D. Pierce, N. Pierce, Prevost, Robertson, Rix Robinson, Skinner, Soule, Sturgis, Town, Walker, Warden, Whittemore, Williams, Woodman, President—54.

NAYS—Messrs. Axford, Bagg, Butterfield, Carr, J. Clark, Hanscom, McLeod, Newberry, Roberts, E. S. Robinson, Storey, Whipple—12.

And the article and resolution were, under the rule, referred to the committee on arrangement and phraseology.

The article entitled "Finance and Taxation" coming up for a third reading,

Mr. FRALICK moved to pass the same over for the day; which was not agreed to.

The article was then read a third time, when

Mr. BAGG moved to recommit the same to the committee on finance and taxation, with instructions to strike from section eleven the words, "except upon property paying specific taxes."

The PRESIDENT called Mr. BUSH to the chair.

Mr. GOODWIN moved the following addition to the instructions proposed by Mr. BAGG:

And also to add to section one the following: "But the legislature may provide that when any private corporations are or shall be, in consideration of specific taxes, exempt by their charters from all other taxation, the counties, towns, cities or villages within which such corporation may hold property which would be taxable if held by other persons, shall be entitled to an equitable proportion of such specific taxes for local purposes."

Mr. G. briefly stated the object he had in view, as embodied in his proposition, and said—The gentleman from Berrien [Mr. BRITAIN] argued very strangely on a previous day, viz: that a town or city within which a railroad enjoyed property for the uses contemplated by the charter, should not be entitled to any portion of the specific tax. He could not see the justice of not permitting towns and cities to receive that benefit from property so enjoyed, that it would from other property situated within their limits. There might be other than rail road charters granted to corporations; there might be canal charters, &c., &c. But not only did that rail road, which had been adverted to in particular, possess the powers usually granted to such corporations, but was also chartered as a navigation company, and was at present running boats worth \$200,000 to and from Detroit. They had the powers of a vast navigation company, possessed property to a large amount along the margin of the river, and thus necessarily came into competition with other business in the city. Their property along the river might extend at least a quarter of a mile, or perhaps more; and not only had they store-

houses for rail road purposes, but also for their navigation purposes. If it were not then for this provision in the charter of the company, which prohibited all other taxation in consequence of a certain amount being paid to the State, all this property would be subject to local taxation, like all other property possessed and enjoyed within the city limits. If there were justice or propriety in the view taken by the gentleman, in withholding in relation to the upper peninsula, was there not equal justice in withholding a fair proportion of this specific tax for local purposes by the action of the legislature? This was what the amendment aimed at.

Mr. BRITAIN here remarked that he did not understand the subject of the taxation of the upper peninsula to have been definitely disposed of. The matter had merely been deferred until the business of that region of the country would come before the Convention.

Mr. GOODWIN replied that he believed the property of the upper country would be exempted under the general provisions of the article. But it was a matter of equal justice, a matter of right, upon the great principle of equal taxation, that all property, such as that to which he had adverted, should be taxed for local purposes. Was there any reason—was there a particle of justice in saying that a million's or two millions' worth of property situated in the city of Detroit, should be withheld from all local taxation, which if held by a private individual would be subject to taxation? There had been inserted in this article a provision requiring the taxation throughout the State to be equal—we said that the Legislature should provide for an uniform rate of taxation—we established a general principle of equal taxation. Then was not that principle generally applicable? Should it not be applied equally throughout the State? The amendment which he had presented, if adopted, would give efficacy to the principle which had been established, and render consistent the action of the Convention; besides, the question involved was one of mere justice—of equal rights—of uniform taxation.

After some slight conversational discussion, in which Messrs. BRITAIN, COMSTOCK, GOODWIN and HANSCOM participated, the amendment [Mr. BAGG's] was withdrawn.

The question then turned upon the passage of the article, and the yeas and nays being ordered and had thereon, resulted as follows:

YEAS—Messrs. P. R. Adams, W. Adams, Alvord, Anderson, Arzeno, Barnard, H. Bartow, Beardsley, Britain, Ammon Brown, Asahel Brown, Bush, Chandler, Church, Conner, Crouse, Danforth, Daniels, Eaton, Gardiner, Green, Hanscom, Hart, Harvey, Hascall, Kingsley, Lovell, McClelland, Morrison, Mosher, Mowry, Newberry, Orr, J. D. Pierce, N. Pierce, Prevost, Robertson, E. S. Robinson, Rix Robinson, Skinner, Soule, Sturgis, Town, Walker, Warden, Whipple, Whittemore, Williams, Woodman—49.

NAYS—Messrs. Bagg, Butterfield, Carr, Choate, Cornell, Fralick, Gale, Gibson, Lee, McLeod, Storey, President—12.

So the article was passed, and under the rule referred to the committee on arrangement and phraseology.

The President took the chair.

On motion of Mr. ROBERTSON, the article entitled "State Officers" was taken from the table; and the question being on recommitting with instructions, as proposed by Mr. STOREY on the 24th ult.,

Mr. STOREY observed that he had moved to recommit this article with the instructions which he had proposed, for the reason that he was of opinion the officers of the State prison should be elected in the same manner as the other State officers. The plan he proposed was in accordance with the N. Y. system. The section which he sought to have incorporated in the article was copied from the N. Y. constitution. It was the system at present in existence in Connecticut, and in the prisons of many of the other States. Our present prison system he considered a bad one; there was no direct responsibility on the part either of the agents or inspectors. His proposition would have the effect of making them directly responsible.

Mr. WOODMAN moved to amend by further instructing the committee so to amend the article that the Attorney General shall not be required to keep his office at the seat of government; but the motion did not prevail.

A division of the question was had, and the motion to recommit was lost.

Upon the question, "shall the article

now pass?" the vote, by yeas and nays, stood as follows:

YEAS—Messrs. P. R. Adams, W. Adams, Arzeno, Bagg, Barnard, H. Bartow, Beardsley, Britain, Ammon Brown, Asahel Brown, Bush, Carr, Chandler, Choate, Church, Comstock, Crouse, Conner, Danforth, Daniels, Eastman, Eaton, Gale, Green, Harvey, Hascall, Kingsley, Lee, Lovell, McClelland, Morrison, Mosher, Mowry, Newberry, Orr, J. D. Pierce, N. Pierce, Prevost, Robertson, E. S. Robinson, Rix Robinson, Town, Walker, Warden, Whipple, Whittemore, Williams, Woodman, President—49.

NAYS—Messrs. Fralick, Gardiner, Gibson, Hanscom, McLeod, Skinner, Storey—7.

So the article was passed, and under the rule referred to the committee on arrangement and phraseology.

On motion of Mr. STOREY, the Convention resolved itself into committee of the whole on the general order, Mr. WHIPPLE in the chair.

The committee took up for consideration the resolution relative to the sale of ardent spirits.

Mr. EATON moved to strike out the first branch of the resolution.

Mr. E. said the reason he had for making this motion was because the article (the legislative) contained a provision very nearly the same as this resolution.

Mr. ROBERTSON hoped the motion would not prevail. It appeared proper to him that we should submit this question to the people in a separate article. There were many who would oppose it, because they thought it was going to abolish the sale of ardent spirits. Some would oppose it, because it was going to throw open the traffic to all. Others, because they supposed it was going to cut off the whole concern. He was for submitting the matter, then, to the people, for a separate vote. It would be a strenuously contested question. There were objections enough to other parts of the constitution, without mixing it up with this subject; for it was one which undoubtedly would excite a great deal of feeling.

Mr. WALKER trusted that the resolution would not be struck out. Since the introduction of the bill, he had been home to his constituents, and he found

it to be the universal opinion of the people that this subject should be submitted for their action, as a separate proposition, and not mixed up with other questions.

Mr. CHURCH—I think the delegate from Wayne is under a misapprehension. It does not by any means follow that the existing license laws are repealed in effect, if the new constitution should be adopted by the people, in the Legislative article of which there is a provision prohibiting the Legislature from passing any other license laws, or passing them hereafter. The license laws now in force were passed by a Legislature entirely competent to pass them, acting within the sphere of their constitutional authority; and those laws are on the statute book, and will remain there, just as the present organization of the grand jury would exist until the Legislature, under the present constitution, made some change. If there be evil in this matter, it is evil wholly; and the existing laws should be made the subject of action, as this resolution proposes. Therefore, I desire to keep the resolution entire, more particularly as to the first branch of it, which has reference to the existing license laws; besides the other reason which members have for retaining it in its integrity. By-and-by we can strike out the provision in the article on the Legislative Department, which has been referred to; and in that place it is, perhaps, obnoxious.

Mr. BAGG—I understand that the resolution which my colleague [Mr. EATON] proposes to strike out, was brought up during my absence. Now, sir, about the 8th of June, being here in this Convention, I offered a resolution on this subject; and about the 21st of the same month it went before a committee. We had the subject up; it was debated, and the committee was almost unanimously in favor of the resolution, which was identically this article now before us. Well, some time after, on the motion of the gentleman who is the father of temperance, all the petitions on this subject of license were referred to a special committee, which was then formed and organized, and its reflective operation upon our previous acts has been treasured up in that committee.

Now, when the subject came up, it was upon the gentleman's motion that the article was struck out in committee of the whole.

Then, sir, we went home to our constituents—we came back “fresh from the people,” and what did we do? We passed upon it and put it into the constitution. It was then reconsidered, or an attempt was made to reconsider, and an attempt made to recommit; and by a dozen of a majority this article was put into our constitution, there to remain. And what has this special committee been doing all the time? They have slumbered and slept—killed time in “thoughtless meditation.” (Laughter.) They have hardly ever had the committee together; and now, at this late day, when we have scarcely a quorum in attendance, they come in and try to override us, after we have established this same provision in the constitution. Yet this is the action of the gentleman and his committee! The mountain has labored, and what has it brought forth? Striking out in the one instance what he labors to re-establish in another. I hope this resolution will be struck out at once. What we have already provided on this subject is sufficient. I have been told by Mr. Baughman, the temperance lecturer, from his pulpit, that a great majority of temperance men—or what I used to call the St. Paul men, (laughter,) were in favor of the provision which we have placed in our constitution. I am willing to go for what I think is right and proper, and what I believe a great majority of the temperance men are in favor of; although the gentleman, [Mr. GARDINER,] a temperance man, obstructed everything we did here. After all, this resolution is a senseless concern; I think it is calculated to raise up prejudices against the constitution. We have done away with what the temperance men desired us to abolish; we have done away with the license laws, and left moral suasion to have its effect. This resolution, however, is calculated to do away with all that; to undo what we have done. If it were in order, I would move to sweep away the whole thing.

Mr. EATON—I have no particular feeling in regard to this matter. I have already stated my reason for moving to strike out. I cannot for the life of me see why we should submit a matter to the people, for them to say if it shall be put in the constitution, when we have got it there already. The gentleman from Kent [Mr.

CHURCH] says that it does not touch license laws that are already passed, but may be applicable to other things. It is to be supposed, however, that the Legislature will adapt the laws to the spirit of the constitution we are making, if it be adopted. I do not see why the laws cannot be made applicable to this provision, as incorporated in our constitution.

Mr. BUTTERFIELD—I trust that the first resolution will not be struck out. I believe that this Convention is disposed liberally to place this subject before the people as they desire to have it presented to them. If the temperance people of this State desire anything on this subject at all, it is that it may be presented to them in the form in which the committee have presented it for your action. The gentleman from Wayne, [Mr. BAGG,] it is true, may represent a certain portion of the temperance sentiment of the State; but I think he has declared his sentiment and the sincerity of his support of this question, by announcing that he would move to strike out "the whole thing." I speak advisedly when I say that a large portion of the people of the county I in part represent, that is, the entire of the temperance people, are decidedly in favor of having this matter submitted in the form proposed by the committee. They are in favor of the people having an opportunity of expressing their sentiments upon this difficult question. If the majority of the people should decide against it, they are willing that that sentiment should prevail. But they do believe that the people are in favor of the second resolution as proposed here.

But there are other reasons why it should not be stricken out here, and some why it should in the legislative article; they are sufficiently obvious, however, and do not require to be detailed. Put the question, I say, as the people desire it to be put—let it go to the people as they wish. Let them say whether they would prefer to abide by the existing laws, or prohibit all licenses, and thereby the traffic in ardent spirits.

In regard to the second resolution, I would remark this in reference to the sentiment therein embraced: I understand the sentiment of the temperance community in this State to be this: that the traffic in liquor, as a drink or beverage, is wrong; if

it be a poison, that it should be placed upon the same footing that other poisons are placed. If there be danger attendant on the use of liquors, as is admitted by a large majority of the people, then they ask that it may be placed in the same category with other deadly poisons—that it be placed upon the druggists' shelf, side by side with hemlock and prussic acid. I will say, in conclusion, that this resolution is in entire accordance with the sentiments and wishes of the public, so far as indicated by the prayer of the various petitions presented here upon this subject.

Mr. J. D. PIERCE—I wish to ask the chairman of the select committee [Mr. GARDINER] a question. In the legislative article we adopted a provision prohibiting the Legislature from passing any laws for granting licenses for the traffic in ardent spirits: well, what I want to know is, if that be not what the petitioners on this subject asked, so far as that question is concerned?

Mr. GARDINER—Some of them asked for that?

Mr. J. D. PIERCE—Did not a majority ask for that one thing?

Mr. GARDINER—They asked for an abolition of the license laws. I consider that the provision in the article on the legislative department does not do that.

Mr. J. D. PIERCE—During the adjournment, some of the Sons of Temperance and the officers of that organization, came to me and said they wished that to be inserted into the constitution; and the other question they were willing should be submitted in a distinct form to be voted upon by the people. So far, then, as I understand public opinion in my county, I find that both parties, and all parties, are willing to have the license question determined in the constitution, and the other question submitted to a separate vote. That is the reason I voted for the adoption of the provision in the legislative article.

Mr. GARDINER—In reply to what the gentleman says respecting the wishes of the Sons of Temperance, I will tell the gentleman that, so far as my action has been concerned on this subject, I act under the immediate instructions of the Grand Division of the State of Michigan.

At the last meeting of the Grand Division, held in Detroit, it was resolved, and

urged upon us not to incorporate this principle in the body of the constitution, least it might endanger the adoption of the instrument by the people. Under these instructions I have acted from the commencement of this matter.

I will remark, in answer to the statement made by the gentleman from Wayne, [Mr. BAGG,] that I came here to urge this matter on the Convention when there is not a quorum present—in reply, I say, it was without my volition that this matter was now brought forward. The gentleman himself pledged me that he would go for submitting the question to the people. See how he has redeemed that pledge! I have nothing more to say on the subject. I have submitted the matter to the Convention, and I hope they will lay it before the people. There is one thing it will do. If, as has been argued, the people be not prepared to adopt this resolution, the submission of it, together with the second article, will quiet the clamors on the subject that have been rung through the State from year to year. If it be once submitted to the people, and they say “no,” the temperance men will rest content under that decision. Why not gratify them by letting them have a vote upon the matter? I hope, then, that they will be gratified in this particular—it is all they ask.

Mr. J. D. PIERCE—I would ask the chairman of the committee on the legislative department, if that article did not abolish the license laws in this State?

Mr. McCLELLAND—I would answer that question by reading that part of the article referred to by the gentleman from Wayne—

Mr. BAGG (interposing)—I would answer that it does.

Mr. CHURCH—I would say that it does not.

Mr. BAGG—I am as much of a lawyer—

Mr. J. D. PIERCE—I wish, sir, to have this matter arranged in such a manner as will satisfy the temperance people of the State. I am willing to adopt either course in regard to this subject.

Mr. BAGG—When the gentleman [Mr. GARDINER] went against us on the provision in the legislative article—

Mr. GARDINER (interposing)—My name is on the journal in favor of it.

Mr. BAGG—The gentleman moved to strike it out; and it was only by the good sense of the Convention, when a little fuller, that the provision was reinstated. Common sense, now, has something to do with this matter. I stated that I had something to do with this temperance business—that I had a son at the head of one of those temperance lodges. I went home and got some “sentiment” on the subject. Baughman, the temperance lecturer, was here lately, and what does he say? He says we are right; and he may be supposed to be somewhat of a judge in regard to this subject—he speaks *ex cathedra*. It will be remembered, too, that I made an appeal to the St. Paul men; and the provision would never have been passed, except for the men who sometimes take a little “for the stomach’s sake.” (Laughter.) And they are the men, sir, the better qualified to give an expression of the public sentiment than the extreme drunkard on the one hand, or the ultra temperance man upon the other.

I shall say but little in regard to the second resolution. It appears to me, however, that it will make as much excitement and will tend to hurt the temperance cause almost as much, for the first year or two, as what we have done, will help it, by removing the barrier to moral suasion. The first resolution will be struck out at once—no mistake about that.

Mr. FRALICK—What are we doing here? We are trying to revise the constitution; to render it better adapted to the interests of the people than it is at present. I am not in favor of putting any provision in it that will tend to excite any amount of feeling, or would dispose the people to go against the constitution. I am in favor of having this question submitted to the people separately, in the form here indicated. I think that when we shall have completed our labors here, we will have enough of matters in the instrument to excite opposition to its adoption. I hope the resolutions will be adopted, and the provision in the legislative article struck out, for the reason that by that means the question will be settled on its own merits.

Mr. WILLIAMS—I had supposed this subject had been amply discussed heretofore; and that the committee was ready to decide what disposition to make of it.

agree with an old man I once heard of in N. Y.; on being asked to subscribe for a grave yard—"no," says he, "I won't subscribe a cent. If there is anything in this world I detest, it is a grave yard." So, if there is anything in this world I detest, it is the grog question in elections. In regard to the resolutions, I am as much opposed to the latter portion as the other. Passing over the phraseology, which is defective, (for instead of "mechanical, medicinal and chemical purposes," it should read "scientific and medicinal purposes,") I have objections to the creation of any laws by the Legislature, authorizing any set of men to sell liquor, to the exclusion of others, for medicinal, chemical and mechanical purposes. Why, every body knows—every man here knows that every drug store and shop in his village would be turned into grog shops. The stuff would be sold as freely as ever. It would be a perfect "striped pig" operation.

I hope these resolutions will fail, for they would bring this whole question to the polls, when the people have the grave question before them of the adoption of the constitution. But let the section relative to the abolition of the license system stand, and there need be no agitation. As I understand the matter, the Convention passed that section for these reasons: If it were a reputable business let all pursue it. If otherwise, why should the treasury be replenished by the wages of sin? Let not the State descend from its dignity to the pitiful level of taking five dollars per man for the pursuit of a trade it condemns by the very act. Again, it is proved clear enough that such laws are generally a dead letter, not half the time operative. Why allow your Legislature then to pass laws which are partial or dead letters? Is it not a kind of foolery? But the agitation at the polls of the question "license" and "no license," creates ill feeling; and often a bitter animosity, hostile to the peace of the community. Why throw this fire-brand into elections? The enactment of this section seems to be talked of as though an encroachment on men's rights. Not at all. It determines what the Legislature shall not do; as in case of lotteries, it forbids them. It seems license laws are an anomaly—no other trade pays a penalty or a bribe for the exercise of it. Why

should this? unless it is done to provide for the mischief it causes; which it can never do. I hope then, as a question of political economy, as well as on the score of expediency and justice, the section will be adhered to, and these resolutions not brought into the election.

Mr. N. PIERCE was willing to adopt the legislative article as it at present stood, or to adopt the resolution, and strike out the section referred to in the article; he did not care which course was pursued.

On motion of Mr. WILLIAMS, the committee rose and reported the resolution without amendment.

Mr. J. D. PIERCE moved that the Convention adjourn; which was not agreed to.

Mr. EATON moved to strike out the first branch of the resolution.

Several members here endeavored to catch the President's eye, among them Mr. BRITAIN and others.

The previous question, however, was moved, and being sustained, the main question was ordered to be now put, and the yeas and nays being ordered and had, resulted as follows:

YEAS—Messrs. Alvord, Anderson, Bagg, Barnard, H. Bartow, Carr, Chandler, Eaton, Gaie, Hanscom, Hart, Lee, Lovell, McClelland, Morrison, Mowry, Newberry, Orr, J. D. Pierce, Prevost, Soule, Sturgis, Town, Warden, Whittemore, Williams, Woodman—27.

NAYS—Messrs. P. R. Adams, W. Adams, Arzeno, Beardsley, Ammon Brown, Asahel Brown, Butterfield, Choate, Church, Comstock, Conner, Cornell, Crouse, Danforth, Daniels, Eastman, Fralick, Gardiner, Gibson, Green, Harvey, Hascall, Kingsley, Mosher, N. Pierce, Robertson, E. S. Robinson, Rix Robinson, Skinner, Storey, Walker, Whipple, President—33.

When Mr. BRITAIN's name was called, he said: I do not desire, sir, to be driven into voting on two or three principles; particularly as I had not an opportunity of expressing my opinions. I addressed the chair in a manner loud enough to be heard at the Ohio House. The Convention may excuse me as it may see fit.

Mr. WHIPPLE would assure his colleague that he did not hear him when he was in the chair in committee of the whole.

Mr. BRITAIN—I endeavored several times to catch the attention of the chair.

The PRESIDENT—I did not perceive the gentleman on the floor.

It was then moved that Mr. BRITAIN be excused from voting; which was not agreed to.

Mr. GALE suggested that the gentleman from Berrien [Mr. BRITAIN] be allowed to explain for one hour. (A laugh.)

Mr. ALVORD observed that three hours would be better.

A MEMBER—Until 8 o'clock this evening. (Loud Laughter.)

When Mr. BRITAIN's name was again called, he said he could not conscientiously vote, as he was not allowed to give his reasons.

The motion to strike out (Mr. EATON's) was lost, as indicated by the foregoing vote.

Mr. BAGG moved a call of the Convention; but the call was not sustained.

Mr. BRITAIN moved to adjourn; which was lost.

Mr. GALE moved a call of the Convention; which was not agreed to.

Mr. EATON moved to adjourn; but the motion was lost.

The question being on ordering the resolution to a third reading, the yeas and nays were ordered and resulted—yeas 28, nays 32.

So the Convention refused to order the resolution to a third reading.

On motion of Mr. J. D. PIERCE, the Convention adjourned.

Afternoon Session.

The Convention was called to order by the PRESIDENT.

Mr. STOREY offered the following:

Resolved, That the resolution adopted by this Convention on the 4th day of June last, by which the Governor of the State was invited to take a seat within the bar of the Convention during its sittings, be and the same is hereby rescinded.

Mr. S. said—I offer this resolution, sir, for the single and significant reason that I am tired of seeing the Executive of the State and some of the State officers nosing about among the members of the Convention, logrolling with them upon questions which are to come up for action here. The practice has become too palpable and too

obnoxious to be longer overlooked. Hardly a day passes that something of this kind is not observable here; and I offer this resolution in good faith, hoping that even though it be not adopted, it will have the effect to abate a nuisance which has become insufferable.

Mr. McLEOD—I rise to say one word on the subject. I opposed the resolution inviting the Executive to take a seat on this floor, at the time of its adoption, and it has been a source of nuisance since. It is enough for us to be under the influence of demagoguism one-half the time, without having the adventitious influence of the State officers brought to bear upon us, as has been the case.

Mr. N. PIERCE—I am very glad to hear the repentant brethren make this confession. The influence of the Executive has never been brought to bear upon me; nor did the Treasurer, when I wanted to get some money, tell me in what way I ought to vote, (Laughter.) I should like that the gentlemen who have been controlled, would tell how they were influenced. I am always glad to see the Executive officers within the bar of the House. I did not vote on the resolution, but I am glad to see the Governor here at all times. I am glad to see members getting up and confessing their sins, though I must say that I am surprised that any member of the Convention should propose such a resolution. I suppose it is offered because we fixed the items of the article passed this morning. I voted for some of them, although I did not approve of them. I do not suppose the Executive had any thing to do with the passage of these matters.

Mr. LEACH—It is but a short time since the gentlemen from Jackson and Mackinac [Messrs. STORER and McLEOD] were extolling the Governor as a man of ability and integrity, on this floor. I am willing that the Governor should have a seat here; and if he did influence gentlemen in their votes, perhaps it would not be injurious.

Mr. HANSCOM moved to indefinitely postpone the resolution.

Mr. BAGG said he was happy to think the resolution just offered by the gentleman from Jackson, [Mr. STORER,] came from the very source it did. It was just the quarter of all others, from which it

might have been anticipated. No other person of either party in this Convention, could have been stimulated by passion, or otherwise, to have offered it. As it was, it not only fell harmless at the Governor's feet, but added another laurel to his brow.

Mr. McLEOD—I am one of those who cannot be deterred from saying what is right, by the broad-sides of the majority. I have no doubt but that the resolution will be voted down; however, I desire that my sentiments should go on record, in regard to any influence being exercised upon me in my votes. I have experienced no annoyance from executive or other illegitimate influence whatever. The resolution asking the Governor to take a seat within the bar, seemed to be entirely a matter of taste. I was sorry to see that resolution offered at all; and I am sorry that it has remained in force so long. I would say to the last speaker that there is such a thing as despicable toadyism—a contemptible lick-spittleism—if it be a parliamentary term. And I would say to the gentleman from Calhoun, [Mr. N. PIERCE,] that the reason why he was not subjected to this influence (I suppose he was correct in saying that) is, because there are somethings so worthless as not to justify any interference at all.

Mr. BAGG, (replying.)—Although he might be guilty of what the gentleman from Mackinac charged him with, he would inform that gentleman that he possessed another talent in his youth, which was somewhat prominent in his character—that of portrait painting, orally and by pen and pencil. He could not only draw from nature, but also from habits, and exhibit in bold relief. The gentleman from Mackinaw had been profuse in his personalities towards himself, whenever he had been able to attend the sittings of the Convention, from his numerous catalogue of ailments; and he would now inform that gentleman that, should these personalities be again repeated, he should fearlessly draw his character to the letter, to the life—aye, to the death—and exhibit him to public gaze, as his conduct and character justly merited.

Mr. HANSCOM withdrew his motion, and the resolution was,

On motion of Mr. McCLELLAND, laid upon the table.

On motion of Mr. WHIPPLE, the Convention resolved itself into a committee of the whole upon the general order, Mr. HANSCOM in the chair.

The committee rose without transacting any business.

Mr. CHURCH, from the committee on the judiciary, reported back the article entitled "Judicial Department," amended so as to read:

ARTICLE —.

Judicial Department.

Sec. 1. The judicial power is vested in one Supreme Court, in Circuit Courts, in Probate Courts, and in justices of the peace. Inferior local courts of civil and criminal jurisdiction may be established by the Legislature in cities.

Sec. 2. For the term of six years, and thereafter, until the Legislature shall otherwise provide, the judges of the several Circuit Courts shall be judges of the Supreme Court, four of whom shall constitute a quorum, and a concurrence of three shall be necessary to a decision. The Legislature shall have power, if they should think expedient and necessary, to provide by law for the organization of a separate Supreme Court, with the jurisdiction and powers prescribed in this constitution, to consist of one chief justice and two associate justices, to be elected by the qualified electors of the State. The separate court, when so organized, shall not be changed or discontinued by the Legislature for eight years after its organization. The judges thereof shall be so classified that but one of them shall go out of office at the same time, and their term of office shall be the same as is provided for the judges of the Circuit Court.

Sec. 3. The Supreme Court shall have a general superintending control over all inferior courts, and shall have power to issue writs of error, habeas corpus, mandamus, injunction, quo warranto, certiorari, and other original and remedial writs, and to hear and determine the same. In all other cases it shall have appellate jurisdiction only.

Sec. 4. Four terms of the Supreme Court shall be held annually at such times and places as may be designated by said circuit judges.

Sec. 5. The Supreme Court shall have power, by general rules, to establish, mod-

fy and amend the practice in said court and in the Circuit Courts.

Sec. 6. The State shall be divided into eight judicial circuits, in each of which one circuit judge shall reside after the election, who shall hold his office for the term of six years and until his successor is elected and qualified.

Sec. 7. The Legislature may alter the limits of circuits, or increase the number of the same. No alteration or increase shall have the effect to remove a judge from office. In every additional circuit established, the judge shall be elected by the qualified electors of this State, and his term of office shall continue as provided in this constitution for judges of the Circuit Court.

Sec. 8. The Circuit Courts shall have original jurisdiction in all matters, civil and criminal, not excepted in this constitution, and not prohibited by law; and appellate jurisdiction from all inferior courts and tribunals, and a supervisory control of the same. They shall also have power to issue writs of habeas corpus, mandamus, injunction, quo warranto, certiorari and other writs necessary to carry into effect their orders, judgments and decrees, and give them a general control over inferior courts and tribunals within their respective jurisdictions.

Sec. 9. Each of the judges of the Circuit Courts shall receive a salary, payable quarterly. They shall receive no fees or perquisites of office, or other compensation; and shall hold no other office of trust or profit during the term for which they are elected. All votes for either of them, for any office other than the one held by them, given either by the Legislature or the people, shall be void.

Sec. 10. The Supreme Court may appoint a reporter of its decisions. The judges of the Circuit Courts, within their respective jurisdiction, may fill vacancies in the office of county clerk and of prosecuting attorney; but no judge of the Supreme Court or of the Circuit Court shall exercise any other power of appointment to public office.

Sec. 11. A Circuit Court shall be held at least twice in each year in every county organized for judicial purposes. Judges of the Circuit Court may hold courts for

each other, and shall do so when required by law.

Sec. 12. The clerk of each county organized for judicial purposes shall be the clerk of the Circuit Court of such county, and of the Supreme Court when held within the same.

Sec. 13. In each of the counties organized for judicial purposes, there shall be a court of probate. The judge of such court shall be elected by the qualified electors of the county in which he resides, and shall hold his office for four years, and until his successor is elected and qualified. The jurisdiction, powers and duties of such court shall be prescribed by law.

Sec. 14. When a vacancy occurs in the office of judge of the Supreme Court, Circuit Court or Probate Court, such vacancy shall be filled by appointment of the governor, which shall continue until a successor is elected and qualified; and when elected, such successor shall hold his office the residue of the unexpired term.

Sec. 15. The Supreme Court, the Circuit and Probate Courts of each county shall be courts of record, and shall each have a common seal.

Sec. 16. The Legislature may provide by law for the election of one or more persons in each organized county, who may be vested with such judicial powers as the Legislature may prescribe. And the Legislature may authorize the judges of probate of the several counties to hold one or more terms of the Circuit Court in their respective counties, in addition to the terms required to be held by the circuit judge, and in the absence of such circuit judge; and may also confer upon the judges of probate judicial powers in special cases, and such as are usually exercised by a judge of the Supreme and Circuit Courts at chambers.

Sec. 17. There shall be four justices of the peace in each organized township. They shall be elected by the qualified electors of the township, and shall hold their offices for four years, and until their successors are elected and qualified. They shall have such criminal and civil jurisdiction, and perform such duties as may be prescribed by law. At their first election in any township, they shall be classified by law in such manner that one justice shall be elected annually in each township there-

after. The legislature may increase the number of justices in cities.

Sec. 18. Judges of the Supreme Court, circuit judges, and justices of the peace, shall be conservators of the peace within their respective jurisdictions.

Sec. 19. The first election of judges of the Supreme Court, and judges of the Circuit and Probate Courts, shall be held on the first Monday in April, 1851; and every two years thereafter, an election shall be held for one judge of the Supreme Court; and every sixth year thereafter, for judges of the Circuit Court; and every fourth year thereafter, for judges of probate. Whenever an additional circuit is created, such provision may be made as to hold the subsequent election of such additional judge at the regular elections herein provided.

Sec. 20. The removal of a judge beyond the limits of the jurisdiction for which he was elected, or of a justice of the peace beyond the limits of the township in which he was elected, shall vacate his office.

Sec. 21. The style of all process shall be: "In the name of the people of the State of Michigan." All indictments shall conclude: "against the peace of the people of the State of Michigan."

The article was laid upon the table and ordered printed.

On motion of Mr. ROBERTSON,

Resolved, That each article of this constitution, as passed and referred to the committee on arrangement and phraseology, be printed for the use of this Convention; and

Resolved, That said committee be and they are hereby instructed to prepare a fair copy of each article, as amended by them, and procure the same to be printed before making their report.

On motion of Mr. WALKER, the article entitled "Education" was taken up.

The question being upon concurring in the amendments made in committee of the whole, section 1, as amended, was agreed to.

Section 3, as amended, was then read.

The question being on agreeing to the amendment,

Mr. GREEN moved to amend the original section by striking out all to and inclu-

sive of the word "respectively," in the sixth line, and substituting as follows:

"Each of the cities and townships of this State shall, in the year ———, and in each and every year thereafter, raise by tax upon the real and personal estate in such cities and townships respectively, a sum equal to —, for each and every person residing in said cities and townships between the ages of four and eighteen years, as shall appear by the returns of the school districts therein; which sum, together with the money apportioned to each of such cities and townships from the interest of the primary school fund, shall be apportioned pro rata among the several school districts therein, according to the number of persons between the ages of four and eighteen years, residing in each, as shall appear by the last annual reports of such districts, to be used by them in payment of teachers' wages therein. The amount so to be raised may be increased or diminished by the Legislature as they may deem right and proper; but such increase or diminution shall not exceed — cents per scholar, as above named, at any one session of the Legislature."

Mr. GREEN said he did not desire to prolong the discussion upon this question. The uniform opposition which all the propositions offered on this subject had received, prevented his supposing that any proposition of his would obtain the unanimous support of the Convention. He thought, however, that his proposition presented advantages over any which had been as yet presented. He was of opinion that this would be better than any other, on account of the inequalities of some of the counties. It appeared to him to be unjust, where the authorities of a town had a right to make those districts as small as they pleased, and to give such salaries as they saw fit, to require another district to raise a sum, without reference to the size of the district. It would be better, he thought, to levy the sum upon the scholars. They would know when they employed teachers how many they would have to teach, and calculate their expenses accordingly. There would be then all the inducement possible for them to make their money go as far as they could. Small districts would be induced to alter their boundaries, so as to embrace more territory. He had objections to the

article as amended; in fact certain persons would be excluded from the schools—those who were under four and over eighteen years of age. Such a provision would be very unwise. It sometimes happened that persons over eighteen desired to attend school. As to those under four, it was often very desirable to send them to school.

Mr. N. PIERCE observed that it seemed to him there was some difficulty about the proposition, [Mr. GREEN'S.] The gentleman preferred collecting the tax in towns. He altogether preferred collecting the tax in the whole State; for, some towns would not have the same proportion in regard to the amount of scholars to be educated, as others; the tax then would be unequal throughout the State. The article as amended would suit him very well, if the words "between the ages of four and eighteen years" were struck out, and the words "that all children or persons attending schools" were inserted. This, he would much prefer to the proposition offered by the gentleman; but if the Convention should otherwise decide, he was content.

Mr. HANSCOM hoped the amendment reported from the committee of the whole would not be agreed to. He was willing to lay down by constitutional provision some broad principle, so that the Legislature would have only to go on and establish this system at a subsequent period. It would be better, in his judgment, to leave the whole matter with the Legislature. They could try one mode of taxation or another. He was willing that the subject should be left for them to act upon as in their wisdom they saw proper.

Mr. GREEN had intended to have said, when up, that he was willing to leave the matter to the Legislature; that would be his choice, and was, in his opinion, the best course to be pursued.

Mr. GREEN'S amendment was not adopted.

Mr. LEACH moved to amend the substitute reported by the committee by striking not of lines three and four, the words "not exceeding two mills upon the dollar;" which was disagreed to.

Mr. GALE offered the following as a substitute for the one reported by the committee.

"The Legislature shall establish and pro-

vide for a system of primary schools within five years from the adoption of this constitution, in which the instruction shall be conducted in the English language; and as nearly free to all scholars residing in the several districts as may be deemed practicable."

Mr. LEACH moved to amend by striking out "five" and inserting "two;" which was lost.

Mr. GALE—As the matter now stands, it is carried out too much in detail, yet it does not carry out what it bears upon the face of it. It declares that these schools shall be free schools; let any man carry it out in figures, and he will find it is no such case. He may calculate upon the taxable property of the State, and upon his two mills on the dollar, and yet he cannot carry out his free schools. It ought to be a little practicable; but it is entirely impracticable now. Take, for instance, a school of fifteen pupils—there are many that have but that number, and some as low as eight or ten—it is necessary they should be formed into a district, or else they cannot get an education; the settlements are so sparse that they cannot have a great number of scholars attending, on account of the distance they have to go to school; and they would have but \$12 75 to sustain their school for three months! The whole thing appears to me to be entirely impracticable. I think it would be entirely the better course to leave the matter in the hands of the Legislature. Again, it is highly impolitic that we should inflict the system of free schools on the State without having investigated the whole matter, and knowing what it would be in its practical details.

Mr. WALKER observed that these schools were not to be supported, according to the provision of the section, merely by a tax of two mills. The mode of taxation was optional, either by the two mills, or by a town tax, or by both.

The amendment presented by the gentleman from Genesee, [Mr. GALE,] was not adopted.

Mr. HANSCOM offered the following substitute for the one proposed by the committee:

"The Legislature shall, within five years from the adoption of this constitution, provide for and establish a system of primary

schools, by which such schools shall be kept free and without charge for tuition, for at least three months in the year, in each school district within the State."

Mr. WOODMAN moved to strike out "three months," and insert "four months;" also strike out "five years," and insert "three years."

A division was had, and the first branch of the amendment was lost.

The second proposition was also disagreed to, by yeas and nays, as follows:

YEAS—Messrs. W. Adams, Alvord, Anderson, Bagg, Barnard, H. Bartow, Beardsley, Chandler, Choate, Conner, Cornell, Daniels, Eastman, Gale, Green, Hart, Leach, Lee, Lovell, Mowry, Orr, J. D. Pierce, Robertson, Skinner, Soule, Sturgis, Walker, Warden, Webster, Williams, Woodman—31.

NAYS—Messrs. P. R. Adams, Arzeno, Axford, Britain, Ammon Brown, Asahel Brown, Butterfield, Carr, Church, Comstock, Crouse, Danforth, Eaton, Fralick, Gardiner, Gibson, Hanscom, Harvey, Hascall, Kingsley, McClelland, McLeod, Morrison, Newberry, N. Pierce, Prevost, Roberts, E. S. Robinson, Rix Robinson, Storey, Town, President—32.

The substitute offered by Mr. HANSCOM was negatived.

Mr. BAGG offered the following as a substitute, which was rejected:

"The Legislature shall establish a uniform system of primary schools throughout this State, by levying a State tax upon the taxable property of this State."

The substitute reported by the committee of the whole for section 3 was then concurred in.

Mr. WILLIAMS moved to amend section ten, by adding:

"The said school and farm shall be under the superintendence of the Regents of the University, who may locate the same on any of the University land which they may appropriate for that purpose, not exceeding 640 acres, or on any land donated for the purpose; and it shall be a branch of the University for instruction in agriculture and the natural sciences connected therewith."

And said:—It may not be obvious why I have offered the amendment. I will briefly, therefore, explain. Placing the institution in question under the board of

regents obviates the necessity of creating a new board. My principal reason is, however, to connect the School with the University as a branch, in order that the school, which may be illy supplied with professors, may avail itself of those provided and paid for by the University. The professors of the natural sciences and the professor of anatomy and physiology can deliver full courses of lectures to the proposed school, with very little additional cost. It is to gain this great advantage that I want the disposition of the whole subject as contemplated by the amendment. It will be a responsible trust. The funds may be large, the experiment is new, and I know of no more fit repository of the trust than the regents, highly fitted as I believe they must necessarily be.

Mr. McCLELLAND was somewhat in favor of the experiment of a model farm. But he would submit it to the Convention to say if it were proper to bind up those lands so that if this experiment failed, or the people became entirely dissatisfied with it, they were to be bound hand and foot in regard to the disposition of these lands. He did not like the idea of so fixing these twenty-two sections of salt spring lands, as to take them out of the hands of the people entirely, and place them beyond the action of the legislature in any contingency. He would therefore vote against the amendment.

Mr. WALKER observed that, instead of twenty-two sections, there were but about 2000 acres of unappropriated salt lands.

Mr. WILLIAMS—I went to the land office in order to ascertain the facts relative to these salt lands, and there learned that the whole number of acres granted us by the general government was seventy-two sections; but we never received but 45,345 acres; being 735 acres less than 72 whole sections. Of these lands, fifty sections have been appropriated to the deaf, dumb and blind asylum, the insane asylum and the Normal school—equal to 32,000 acres; thus leaving, in fact, applicable to this subject, (acres,) 13,345

Of this quantity has been sold, (acres,) 3721

The gen'l gov't has disposed of, which must be re-granted by gov't, 7680
Leaving unsold in office, 1944—13,345

The quantity sold by the State has brought the sum of \$16,273 25

One quarter having been paid in hand. The balance (9,624 acres) should yield \$4 per acre, if sold at the minimum valuation, 38,496 00

\$54,769 25

The gross fund, therefore, if all the lands were sold, would amount to \$54,769 25;—a sum fully adequate to establish on a stable and respectable basis the institution contemplated.

The gentleman from Monroe talks about the failure of the school, and therefore thinks the fund should not be inviolably and unchangeably devoted to the object. It is for fear of failure that I would have them thus devoted. Why fail? Prosecute it to success. Instruction, calculated to educe larger crops from the earth, and to promote the health, growth and development of all the earth produces, ought not to fail. If our first attempts fail, let us try again. It is an object worthy of attempts till we are successful.

Mr. McCLELLAND would go as far as the farthest to encourage agriculture, in all its different forms; but he did not place that confidence in this kind of a school that the gentleman [Mr. WILLIAMS] did. They might do as they pleased in regard to this matter, but he was of opinion that whenever such institutions were established by the State, they finally became mere political machines. It was ten times better to give these lands to the farmers of the State, than to the politicians. Still, he was for trying the experiment; however, if it should fail, he desired that the power of disposing of these lands should be with the people.

Mr. CROUSE was opposed to the whole proposition, and would at the proper time move to strike out. He was entirely opposed to submitting the management of this proposed institution to the regents of the University—they might know as much about farming as the man in the moon did about cheese. If we put it under the control of any, let it be under the control of thorough farmers. He was opposed to it on this account, too: it would soon be almost exclusively for the benefit of the sons

of gentlemen residing in villages and cities. The farmers' sons would not want to go there, because they could learn all they wanted to learn at home. It would be better to take these lands and apply them to the payment of the State debt.

The question was then taken upon Mr. WILLIAMS' amendment, and was lost.

Mr. WARDEN moved to amend the amendment made in committee by striking out the words "and farm," wherever they occurred.

Mr. N. PIERCE—The subject is one familiar to all here, although not farmers. I am not tenacious whether the amendment made by the committee should prevail or not, or whether the amendment to the amendment should prevail. I think the model farm is only a small part of the matter. I suppose the education is the principal thing on which reliance will be placed. Whether it is rational to apply some of the lands granted by the United States to this State, to this purpose, is a matter for the consideration of this Convention. It seems to me that the agricultural population have as much right to have a share in the education of the State as any other branch of the people; and I think it fair to apply the public funds to some extent to that purpose. But it will be an experimental matter. I know it is thought by many people that the State is rich. I think she is poor; and I think her burthens will be very heavy for the next ten years. I am not disposed, then, to take the revenues of the State and apply them unreasonably to any experimental matter whatever. If the Convention do not think it consistent with the present policy of the State, they should not take these lands for this purpose; we ought rather to apply them to the reduction of our debt, or to other means of education.

Mr. CORNELL did not know if this were the time at which to start an agricultural school. He was of opinion for many years that at least one quarter of the time was thrown away by reason of our students not being obliged to work at their studies; if they did, they would leave our colleges with stronger constitutions and sounder understandings. Six hours were as many as any man should study in a day. Was it not as well that our students should la-

bor for a certain portion of time, as to be moping and lounging about the streets? What was the consequence of the present system? Men went through their different classes, and when they came out they were broken down in mind and body; and of the principles of the business they embraced, they knew nothing almost. If they were taught to labor, they would turn out something else. Every man should have more or less a practical education. The farmer had no need to know the dead languages; but he might the modern, and the natural sciences. He should be taught everything appertaining to the management of the farm. The gentleman last up did not attach any importance to the model farm—he (Mr. C.) did, for this reason: that when a man studied anything in the laboratory, he would go out with a practical man, and apply the principle which he had previously studied. A man would thus become imbued with a spirit for application of the sciences to agriculture, so that in after life, when he went upon a farm, he would understand thoroughly the theory and practice of farming. A great deal might be said on this subject; but he would simply say that he considered the model farm of importance, and if any portion of the proposition were retained, that should be.

Mr. BRITAIN thought that the best school in which men learned farming was a practical one. The agricultural school the best adapted for making farmers, was the farm under the direction of the owner, whose interest it was to apply every facility for the better cultivation of his property. He would venture the opinion that if we gave \$50,000 to the regents of the University, or three other men, that farm would never be carried on as well as if it had received no government sustenance.

If the University was so fixed as to have the mechanical labor system connected with it, he would readily approve of it. But that was out of the question. If it should happen that the farm were located at some place far away from the University, the pupils would lose the advantages pointed out by the gentleman from Jackson, [Mr. CORNELL.] He could not see how we were to attach a model farm to the University. Let farmers be taught geology, chemistry, &c., &c., and then go home

and apply that knowledge. But he should like to know what farmer would think of sending his son abroad to be taught how to plow, reap, or sow, or to do anything connected with a farm in that way? He would venture to say that any practical farmer could teach these, or any professors, in everything relating to a farm. As to the benefits resulting from this proposition, he was entirely in the dark.

Mr. WILLIAMS—I am somewhat surprised at the remarks made, especially by the gentleman from Livingston, [Mr. CROUSE.] He has thrown out a kind of stuff that this would be a school for rich men's sons. Now, the design is exactly contrary. It is to take those who are certain to be skilled in manual labor, and teach them the general laws by which every thing grows and thrives; to illustrate to them, by practice, the newest discoveries in agriculture; to open their minds to the reception of every useful truth, come from whence it may; and more than all, relieve the young from the thralldom of any traditional errors which may have clung to their fathers from generation to generation. Teach rich men's sons to work! To work with the hoe and the plow! Every boy in this country understands that. But the object of such a school is to teach a man how to promote and protect all his interests. I hardly know how to illustrate the subject. But, suppose the farmers of this State had, by a thorough education of the young wheat growers, increased the value of the wheat one cent per bushel. If we raise 7,000,000 bushels, it would make \$70,000. If it could be increased in quantity ten per cent, it would make a difference in the production of the State for a single year, of \$500,000. Bring sharpened intellects to every daily pursuit of the farmer, and produce, by the use of study, experiment and science, a corresponding increase of the productions of the State, and the cost of a hundred schools would soon be saved.

There are many branches of study that a farmer's boy ought to know, and which he does not learn in ordinary schools, which are rather calculated to fit a man for the counting room or college. I recollect a short time since, that I saw a man—a respectable and intelligent man—upon the point of losing quite a large sum in a court, because he could not measure wood,

piled in the shape of a section of a cone, for a coal pit. A man will find every day, in practical life, that he could save himself from expense and loss of time, if he had a knowledge of such matters. He ought to be familiar with the laws by which mechanical powers are applied. He ought to understand the readiest methods by which measurements of all kinds are made. I will put a case to the gentleman from Livingston: Suppose he and a neighbor had a large bin of wheat to measure, before they could settle or divide. An untaught man might measure it all over, and handle all. His boy, if taught rightly, could, in less than five minutes, calculate from the cubic contents the number of bushels, and save the whole time and expense. These are the kinds of knowledge which he would have every farmer learn while young. But the great advantage of these schools was in the instruction which might be obtained in agricultural chemistry—a knowledge of the elements necessary to each crop; and that knowledge of physiology which would enable a man to propagate with success the finest breed of animals, or bring to the most perfect development, vegetable life. But the five minutes had expired, and he would not encroach on the rule, though he could pile up abundant proofs to show the advantages of such a school.

Mr. CROUSE remarked that he was as anxious as the gentleman [Mr. WILLIAMS] for farmers to have their sons educated. He believed that this article provided for their education, without a model farm. He certainly would be glad for his son to be able to calculate quantities. But, if he had a son who could not calculate the contents of an oat or corn bin, he certainly would sit up with him at night and teach him. He would not send him to a model farm or to the University to learn it. The article made such a provision that every child could be at school three months in every year for fourteen years, or three and a half years in all. He would venture to say that nine-tenths of the people had never been within the walls of a school house for that period. The article also provided that the course of education should be pursued under competent teachers; and altogether it would afford sufficient facilities, under existing circumstan-

ces, for the acquisition of a good education.

Mr. J. D. PIERCE concurred very fully with the gentleman from St. Joseph, [Mr. WILLIAMS.] To give a proper direction to knowledge in this department, (agriculture,) was of the utmost importance to mankind; for in fact the entire subsistence of the earth depended on it. Knowledge, and varied knowledge, was highly needed in farming. In Europe they were ahead of us in this respect. The reason was this: they turned their young men to farming, and sent them to farming schools. They raised in Europe as much as from sixty to seventy bushels to the acre; and in some instances we succeeded in doing so in this country.

If the gentleman from Livingston, [Mr. CROUSE,] or any other gentleman, hired a man who had been trained in one of these schools, and set him plowing along side of a man who had not been so educated, he would see that the former did twice the work of the latter. He [Mr. P.] had a man for some time, who had been two years in one of these schools, and in the sowing season he would not have a furrow that was not of equal length with the rest, and all straight.

Mr. ROBERTSON (interposing) inquired in what country in Europe farmers sent their sons to farming schools.

Mr. J. D. PIERCE, in reply, said that in Germany young men were sent to them, and in many parts of Great Britain such schools had been established, supported by private patronage. He saw no difficulty in carrying out the proposition, and would vote for it.

Mr. CORNELL observed it was well understood that when the law was passed establishing the State University, there was provision made for branches thereto and one of them was to be an agricultural branch; the branches had been lopped off, and this proposition was only intended to carry out that provision. The utility of the plan, he thought no man acquainted with farming operations, could for a moment question; and that science should to some extent direct practice, and practice follow its teachings, none would deny. It was not claimed that the professors in this establishment were to be practical farmers;

their business would be to show the best mode of applying scientific knowledge to agriculture. He would here refer to one simple matter—he would refer to our manures. Our lands are rich enough without manures now, but the time would come when they would require them. What sort of manure would a farmer apply to his lands unless he knew something of chemistry? If he did not know, he would guess at it. A man might apply a manure containing all the elements sufficient to raise forty bushels to the acre, yet, lacking one other element, it would not produce three bushels. Practical farmers knew that such was the case. He knew an instance of a farmer in North Carolina who had a farm that had been an excellent wheat farm; the quantity of wheat, however, decreased from year to year. The farmer manured his lands with all sorts of manures, but to no purpose. At length the farmers in his neighborhood said he should not sow wheat except once in three years, and they recommended certain descriptions of manure. The farmer, however, got nothing but straw, and about three bushels of wheat. Some of the farmers then recommended him to apply plaster; still he got but three bushels. Then they told him to put on lime and plaster, and still he got no more. Then a committee was appointed to investigate the case, and they finally stated the facts to the editor of an agricultural paper, described the manure applied, and it was found out that the manure lacked but one element, which, if the farmer had gone to the expense of twelve shillings or so, in procuring, he would have had twenty-eight or thirty bushels to the acre. The ingredient wanted was simply phosphoric acid; that which was found in bones. It was so that where a necessary element of a manure was lacking, the farmer received but very little return for his outlay.

Mr. COMSTOCK expressed himself in favor of retaining the provision; he thought it due to the farming community that means for the acquisition of this very useful information should be afforded them.

Mr. CROUSE said it was observed by the gentleman from Calhoun, that they attained to greater perfection in Europe than we did here. In his part of the country there were farmers who had been brought

up in England, and for his life he could not see that they were any better farmers than we were, and in some instances they were not as good.

The question was then taken upon Mr. WARDEN'S motion to strike out, and was lost.

The question then recurred upon agreeing to the amendments reported from the committee of the whole.

Mr. McCLELLAND moved to amend by inserting after the word "and," where it first occurred, the words "it shall be competent for the Legislature to appropriate;" and also to strike out "set apart," in the sixth line of the section as amended.

Mr. McC. said his object was to prevent these lands being put beyond the reach of the Legislature, if there should be a failure in the farm. He had great confidence in the scheme, if it did not get into the hands of politicians. We had had a great deal of experience on this subject; for it had been found that wherever collegiate institutions were in the hands of State officers, they had generally become mere political machines, and turned out a failure.

Mr. WILLIAMS said he was opposed to the amendment. He trusted that he duly appreciated the happy faculty, the ingenuity and aptness of the gentleman from Monroe, (whom one of his political friends had pleasantly dubbed "the Earl of Halifax,") in striking between wind and water. But, with due respect, he thought that in this instance he [Mr. McCLELLAND] had struck above the water line. He seemed to be awfully afraid to appropriate these lands inviolably; yet this same article contained two sections, which, by our action, we had just incorporated, as far as we could at this stage of our proceedings, into the constitution. Twenty-five sections of these salt lands, by sections eight and nine, had been created a perpetual and inviolable fund for the support of the State normal school, and for the asylums for the insane, and for deaf mutes, and the blind. If we were satisfied with the expediency and importance of an agricultural school, there were no reasons bearing on the application of the fifty sections, which would not justify us in appropriating the last twenty-two sections, as inviolably as the other fifty.

Mr. McCLELLAND said—The normal

school plan has been most fully tested in nearly all the old States of the Union. But gentlemen must admit that in this country at least, this model farm or agricultural school, exclusively agricultural in its character, is an experiment. Well, if it be an experiment, I ask is it judicious or wise in us to bind up forever these salt spring lands? Why does the gentleman mistrust the Legislature? If the people be in favor of appropriating lands for this purpose, the Legislature will act in accordance with their wishes, as a matter of course; and our making this provision will show them what we intend should be done with these lands. But if this experiment should fail, yet the gentleman [Mr. WILLIAMS] would make it imperative on the people to sustain this school in this way, and no other. But if it prove a failure, would it be reasonable to ask any man to support it? I should think it would not.

The gentleman figured a little while ago. Well, it is the easiest thing in the world to figure. He reminds me of the farmer who once had a farm which he would not sell for "love or money." But the neighbors rose up one morning and found that the farm was sold. They went to the farmer, and expressing their surprise, asked him why he had sold his farm; and he said, "a man came here last night who offered to buy my farm; I refused to sell it; but he took up a pen and paper, and before I knew it, he figured me out of my farm." (Laughter.)

Mr. CORNELL observed that he was willing enough the amendment should be made. He thought that if the school failed, as remarked by the gentleman last up, the legislature should have the control of these lands. The gentleman was mistaken in saying that this school was to be exclusively agricultural. Such was not the case; all the mechanical arts, and the various scientific matters would be taught in it.

Mr. N. PIERCE thought the object of the gentleman [Mr. McCLELLAND] was to get this establishment turned into a law school. (Laughter.) If he had started that at the beginning, he [Mr. P.] would have gone with him. He was sorry to see legal gentlemen opposing farmers having a little share in the education of the people. He did not think, if the experi-

ment should fail, that there would be any great amount of property left—it would be mostly all used up, and nothing would remain but the farm and the buildings attached to it. He saw a number of gentlemen here who were very anxious about it. He did not feel anxious about it; all he wanted was, that the farmers should have a share of whatever education was going. He hoped gentlemen would come up and assist the friends of the measure.

Mr. McCLELLAND would be willing to leave these lands (22 sections) under the superintendence of farmers, if the gentleman would go with him. He did not suppose that any law school would flourish, if it were put under the control of politicians. But place the farming school in the hands of the farmers, and it might flourish. However, there were a great many political volunteers, even in this Convention itself, and he did not know that the gentleman from Calhoun [Mr. N. PIERCE] might not come under that category. [A laugh.]

Mr. BRITAIN hoped the amendment would be adopted. There was a feeling throughout the State to advance the cause of agricultural education. These lands would be safe in the hands of the legislature; if the experiment should be found to be impracticable, the funds could then be diverted to some other channel.

The question was then taken upon Mr. McCLELLAND's amendment, and was sustained.

The amendments reported from the committee of the whole were then severally concurred in.

Mr. SOULE proposed the following new section, to come in between sections three and four:

"Any school district neglecting to keep up and support a school for three months in each year, shall be deprived of its proportion of the income of the primary school fund, and of all funds arising from tax for the support of schools."

And the same was adopted.

Mr. WOODMAN moved to amend section 11, by striking out in the 9th line, the words "at least."

But the Convention refused to strike out.

Mr. WHIPPLE offered the following substitute for section four of the article:

"There shall be appointed by both branches of the legislature, in joint convention assembled, in the year 1852, eight regents of the University; two for the term of eight years, two for the term of six years, two for the term of four years, and two for the term of two years; and at each subsequent election two regents shall be elected in the manner aforesaid, who shall hold their office for the term of eight years."

Mr. W. said—The number of regents provided for in the article as it now stands, I think, is too small; because we all know that the board of regents perform their duties without any compensation—their labors are gratuitous. And it is very difficult, and will be found difficult perhaps in five cases out of seven, to obtain a full attendance at the board; and it may be very important, on occasions, that the board should be full. The regents reside in remote parts of the State, that is, at places distant from that at which the meeting is to be held. In fact, sir, I am unwilling to trust the great interests of the University to a less number of my fellow citizens than six. The interests are of too much magnitude to be trusted to the control of less than six men. I therefore propose that there shall be eight regents, under the impression that as a general rule they can obtain six at any called meeting of the board. And then, again, I am exceedingly anxious to multiply the number for another reason: if we select eight, (and I should prefer twelve,) your regents will be distributed over every part of the State, and the public will thus obtain a knowledge of the character of this institution; for the Convention will observe that the concerns of this University are to be placed in the hands of the regents. They will obtain very important knowledge in regard to this establishment, and the people among whom they live will become informed as to the nature of this institution, and will become interested in it.

As I said before, I should prefer twelve; six is too small. I know it has been said that a small board will effect more than a large one. That may be a very good rule; but I do not see the applicability of it to the case before us. I do not see how we can effect the object which we have in

view, more effectually than by providing that there shall be eight regents.

The second branch of my proposition proposes that instead of electing the regents by the people at large, they shall be appointed by the Legislature in joint convention. My object is this, to place the University beyond all political influence. There is no gentleman, I suppose, in this Convention, disposed to put this institution within the grasp of either political party of the State, or to bring it under any improper influence. Now, it is well known that since the organization of that institution, the Governor and Senate have selected from the different parts of the State the most distinguished and worthy individuals to fill this office, and the happiest results have been had. The difficulty in electing the regents by general ticket, I take, is this: one party meets to nominate State officers, among others six regents of the University, or eight, if this amendment be adopted; the question then rises in my mind whether they will nominate all or a part, by one party. What will be the result? It may be that the regents will thus be thrown all in one portion of the State. I take it for granted that in electing regents, men may or may not be governed by party predilections. The result might be this: when the eastern part of the State was represented by six regents, the other portions of the State would be represented but by two.

I think that instead of leaving the appointment to the Governor and Senate, as heretofore, it would be safer in the hands of the Legislature in joint convention. It appears to me that by adopting this course, we will accomplish the object that we all have in view, with more certainty than if we left it open to the ordinary party contests of the day.

Mr. McCLELLAND—I would suggest to my friend from Berrien the propriety of having these regents appointed by the Governor and Legislature. It would be better than leaving the appointment with the Legislature alone; because, if left to them, some of the difficulties suggested might arise. I think it would be much better to leave it to the Governor, to be approved of by the Legislature in joint convention.

Mr. WHIPPLE had no objection to so

amend his proposition; and the substitute was then amended as suggested.

Mr. BAGG—I am opposed to the substitute offered by the gentleman from Berrien, [Mr. WHIPPLE,] and the amendment suggested by the gentleman from Monroe. I am for having the people elect these men. I know of no good reason why the people cannot as well elect these regents as the Legislature. Sir, I believe the people have the good sense to make a proper selection in this matter. If there be any argument against the election of these officers by the people, it applies equally against their being appointed by the creatures of the people, the Legislature. I never desired to see them appointed by the Governor; but I prefer the substitute as modified, to the original proposition. However, I should desire to amend in this way: "there shall be elected at the first election after the ratification of this constitution, twelve regents."

The PRESIDENT—The amendment is not in order.

Mr. WALKER said he had no great feeling on this subject. It was considered by the committee that the board of regents, as heretofore organized, was too large, and that more efficiency would be introduced by reducing the number. Their object in fixing upon "six," was to insure a more direct responsibility on the part of the board. He believed, from knowing it was demanded that all officers should be elected by them, that those should also. He had no fear in leaving the election of the regents to the people, and so making them directly responsible to the public.

Mr. N. PIERCE observed that the government of the University was not such as it should be. With the large amount of funds which it had at its disposal, for the last fifteen years it graduated only about twelve students in the year. This institution did not educate one-half the number that other chartered institutions in this State did; and this resulted merely from the government. In the Albion Seminary they graduated about fifty this year. There was something wrong about all this. He made these remarks merely to set forth some information which he received last year, as a member of the legislature. He would much prefer that any sectarian religious society had care of this institution,

than to have no one taught in it. They taught no one—their rules and course of study were good, but still they did not get pupils. The University was surrounded by difficulties that should be looked into.

Mr. CHURCH could not look with any complacency upon the idea of taking the regents of the University into the two great caucuses of the political parties of the State, every two years. There, no doubt, they would be used as a sort of small change. He knew what sort of people there were in State Conventions; and in settling between the different candidates of the State, the settlement for the smaller candidates, and the claims of one section of the State, would be made up in this way: "we will give you a regent if you go with us for treasurer." Such would be the case; they would certainly become "small change," if the plan of electing them by the people were carried out. He agreed with the delegate from Macomb, [Mr. WALKER,] as to the number of regents. He did not think it well to increase the number. But in view of the difficulty of collecting a small number from the different parts of the State, that fact would be sufficient to recommend the proposition of the delegate from Berrien, [Mr. WHIPPLE.]

Mr. LEACH expressed himself as being opposed to the substitute. He thought that the question in regard to the election of officers by the people had been finally disposed of. The argument against the election of regents by the people, he considered, held equally against the election of any other officers whatever. Education demanded that these men should be protected from all sectarian and party influence. If the appointment were left to the Legislature, would not the regents be party men? He expected they would. If elected by a democratic Legislature, they would be democrats, and *vice versa*. He thought, from the history of the past, they would be political men—

Mr. WHIPPLE (interposing, and Mr. L. giving way)—I beg to contradict the gentleman. I have been a member of the board of regents—

Mr. LEACH—As a general thing—

Mr. WHIPPLE—Neither as a general or a particular thing.

Mr. LEACH would assert that as a gen-

eral thing men nominated by the Legislature had been political men.

The question being upon the adoption of the substitute, [Mr. WHIPPLE's,] the same was taken by yeas and nays as follows:

YEAS—Messrs. P. R. Adams, W. Adams, Alvord, Anderson, Arzeno, Axford, H. Bartow, Britain, Ammon Brown, Choate, Church, Conner, Cornell, Crouse, Gale, Hanscom, Hart, Hascall, McClelland, Morrison, Mowry, Newberry, Orr, Robertson, Rix Robinson, Storey, Webster, Whipple, Williams, Woodman—30.

NAYS—Messrs. Bagg, Barnard, Asahel Brown, Bush, Butterfield, Carr, Chandler, Comstock, Daniels, Eastman, Eaton, Fralick, Gibson, Green, Harvey, Kingsley, Leach, Lee, Lovell, Mosher, N. Pierce, Prevost, Skinner, Soule, Town, Walker, Warden, President—28.

Mr. WHIPPLE submitted the following, to stand as a new section, (5;) and the same was agreed to:

“The regents elected pursuant to the provisions of the foregoing section, and their successors in office, shall continue to constitute the body corporate, known by the name and style of the “regents of the University of Michigan.”

Mr. BRITAIN moved to amend section eleven by adding after the word “farm,” in the eighth line, the words “until otherwise appropriated by law.”

Which was agreed to.

Mr. WILLIAMS moved to amend by inserting after “farm,” in sixth line, “and it shall be competent for the legislature to make the same a branch of the University for instruction in agriculture and the natural sciences connected therewith, and place the same under the supervision of the regents of the University.”

Mr. W. said—Though the Convention have refused to place the proposed school under the supervision of the regents, yet, as they have left the creation of the school itself to the discretion of the legislature, there can be no harm in leaving this subject also to their discretion. I only want the legislature to have the power to connect the school with the University, by ever so slight a tenure. Surely there can be no more fit repository of the management of the institution than the regents. They will be likely to be practical men, of wide experience, of integrity and public spirit.

But I wish it made a branch for the reasons stated before. An agricultural school would probably be placed under a farmer of great comprehensiveness of mind, and great practical skill, and a professor of agricultural chemistry, and such other teachers as may from time to time be required. There will necessarily be connected with the University, professors who have no very onerous duties, and who are employed but a portion of the year. It so happens that these were the very professors whose lectures and instructions would be invaluable to an agricultural school, which may be too poor to employ a separate corps. They would probably perform all the duties of both institutions for the same or very little additional compensation. The professor of anatomy and physiology could deliver a course of lectures, embracing that knowledge of general laws regulating health, life and growth, and the improvement and cultivation of both the animal and vegetable creation, and the preservation of the physical man of the students themselves. The professors of natural philosophy, geology, and natural history, could all be made valuable to the branch. The professor (if such shall be employed) of the application of science to the arts, and an illustration of the manner in which the wonderful discoveries and inventions of this wonderful age are put into daily practical use, would confer great benefits on the school by his occasional instructions. Now, if an agricultural school is ever organized, I wish to connect it by some tie that will enable it to avail itself of such valuable instruction, so nearly gratuitous as it must be, if these duties are imposed by the regents on the professors of the University.

This discretion can certainly be trusted to the legislature. I perceive it suits the temperament of the Convention to chant laudations to-day of the purity and wisdom of the legislature. To-morrow it may suit the temper of the times and the arguments in hand, to denounce and distrust it as corrupt. I should like to avail myself of this favorable moment to procure the adoption of this amendment.

The amendment was adopted.

On motion of Mr. WOODMAN, the Convention adjourned.

TUESDAY, (49th day,) August 6.

The Convention met pursuant to adjournment and was called to order by the PRESIDENT.

No clergyman in attendance.

PETITIONS.

By Mr. FRALICK: of Riley Stilwell and thirty-five other citizens of Plymouth, Wayne county, praying that a clause may be inserted in the organic law of this State, whereby any convict who may be sentenced to the State penitentiary, for any term of years not during life, may have the privilege to choose any profession or trade he may think proper; so that the learned professions may share equally in all the benefits resulting from the system of prison labor.

Referred to the committee on the judicial department.

Mr. HANSCOM announced the receipt by the Secretary of a communication from the Postmaster of Lansing, by which it appeared the postage of the Convention amounted to \$501 97.

Laid on the table.

MOTIONS AND RESOLUTIONS.

Mr. McCLELLAND called up his resolution of yestereay, relative to an adjournment, and modified the same by inserting "Thursday, the 15th inst."

And the resolution, as modified, was adopted.

On motion of Mr. J. D. PIERCE,

Resolved, That the committee on miscellaneous provisions be instructed to inquire into the expediency of incorporating a provision in the constitution to promote the early sale and settlement of the unappropriated public lands now held by the United States, exempt from taxation within this State; the Legislature shall be authorized to take all necessary and proper steps to procure the conveyance of said lands to the State, whenever they can be obtained on just and advantageous terms; and whatever sum, if any, shall be realized from the sales of the land so acquired, after repaying to the State the amount of all advances made on account of the purchase, management, sale and settlement of the same, together with interest thereon, shall constitute a permanent fund for the benefit of education, and the support of such deaf, dumb, blind and insane persons

as have not the means of supporting themselves.

The Convention having reached the order of unfinished business, resumed the consideration of the article entitled "Education."

Mr. SKINNER moved to amend the article by adding at the end of section 8: "and tuition shall be free and without charge in said institution."

Which motion was lost.

Mr. CORNELL proposed the following:

Resolved, That the article be recommitted to the committee on education, with instructions to strike out section 3, and insert as follows: "The Legislature shall, as soon as practicable, establish a system of primary schools, the tuition of which shall be free throughout the State, and provide for their support."

Mr. CORNELL said, from the discussion which had been had on the subject, and the various amendments offered, it was evident the article was not satisfactory; perhaps it went too much into detail. He, for one, was willing to leave the matter to the Legislature. He had more confidence in the future action of the Legislature than some delegates appeared to have.

Mr. N. PIERCE would ask if the proposition had not been over and over rejected by the Convention? To make a man take a pill against his will, is hard.

Mr. CORNELL—The proposition to leave the question to the Legislature has not, to my knowledge, been made before.

Mr. BAGG—The nearest to it is the proposition I made yesterday: that the Legislature shall have power to levy a tax for the support of primary schools. As the gentleman's proposition is something like mine, I shall support it. We are legislating here too much. If we cannot perfect it, let us not go into it at all, but leave it to the Legislature.

Mr. WALKER—We have had substantially the same proposition offered in committee of the whole, and on two occasions in the Convention. I have been surprised at the disposition of members of the Convention. Some get up and make propositions going more into detail than the article reported, and then go against all detail. I respect the gentleman's motives. I believe he is in favor of it. It will be the mere *Utah* left in the bill. The article pro-

poses that the Legislature shall provide for a system of schools in which tuition shall be free for three months in the year. The rest of the bill is detail. They shall raise a tax not exceeding two mills on the dollar. On the first introduction of the bill, it excluded any portion of it being raised by a State tax; but as the Convention are willing that a portion shall be raised by a tax on the whole taxable property of the State, I concur with it; but I am unwilling that the minimum rate of time shall be shortened.

Mr. CORNELL—It leaves it unfettered. The Legislature can provide for free schools by a State tax, a county or a township tax. It leaves them to carry it out, and they will carry it out as soon as practicable.

A division of the question was had; and on the motion first to recommit, the yeas and nays were had, and the motion prevailed, as follows:

YEAS—Messrs. Arzeno, Axford, Bagg, Ammon Brown, Asahel Brown, Bush, Carr, Chandler, Choate, Church, J. Clark, Conner, Cornell, Crouse, Danforth, Daniels, Eaton, Fralick, Gale, Gardiner, Gibson, Green, Hanscom, Hart, Kingsley, Leach, Lee, Lovell, McClelland, McLeod, Morrison, Mosher, Newberry, Orr, J. D. Pierce, Prevost, E. S. Robinson, Rix Robinson, Skinner, Storey, Sturgis, Town, Whipple, Whittemore, President—45.

NAYS—Messrs. P. R. Adams, W. Adams, Alvord, Anderson, Barnard, H. Bartow, Beeson, Britain, Comstock, Harvey, Mowry, N. Pierce, Robertson, Soule, Warden, Webster, Williams, Woodman—18.

Mr. WALKER moved to amend the proposed instructions by inserting after "State," the words "by which such schools shall be kept in each and every school district, for at least three months in each year."

Mr. CORNELL said, in a great many of the districts we have a school over five months in the year, and nearly free. He would leave it to the Legislature to do what they please—revolutions never go back. It is not likely that they will establish a less time than three months. He would leave it open for legislative action.

The amendment was lost by the following vote:

YEAS—Messrs. P. R. Adams, W. Ad-

ams, Alvord, Anderson, Arzeno, Barnard, Beeson, J. Clark, Eaton, Leach, Morrison, Mowry, J. D. Pierce, N. Pierce, Robertson, Rix Robinson, Skinner, Sturgis, Town, Wait, Walker, Warden, Webster, Williams, Woodman—25.

NAYS—Messrs. Axford, Bagg, H. Bartow, Beardsley, Ammon Brown, Asahel Brown, Bush, Carr, Chandler, Choate, Church, Comstock, Conner, Cornell, Crouse, Danforth, Daniels, Fralick, Gale, Gardiner, Gibson, Green, Hanscom, Hart, Harvey, Hascall, Kingsley, Lovell, McClelland, Mosher, Newberry, Orr, Prevost, Roberts, E. S. Robinson, Soule, Storey, Whittemore, President—39.

Mr. WOODMAN moved to amend the instructions by striking out "as soon as practicable," and inserting in lieu thereof, "within three years after the adoption of this constitution."

Mr. J. D. PIERCE was in favor of the article as it stood. With such an amendment as that offered by the gentleman from Jackson it would be of no more value than a piece of blank paper. The Legislature might see fit in one year or in fifty. The provision would be of no account whatever.

Mr. WOODMAN believed the system of free schools had been fully discussed, and he believed it was the opinion of the Convention that they should go into operation as soon as they can fix on details. By fixing the period of three years, after which they shall go into operation, the people can discuss the matter, and the details can be carried out by the Legislature.

Mr. CORNELL was opposed to the amendment. It should be left to the Legislature. Perhaps there would never be a Legislature consisting of a less number than the Convention consists of at the present time. Some wisdom may probably remain in the State, and may get into the Legislature after the Convention shall have adjourned. The members of the Legislature may be as much disposed to carry out the wishes of the people and sustain the best interests of the State, as the present Convention.

Mr. STOREY moved to strike out "three years," and insert "five years."

The yeas and nays were had, and the Convention refused to strike out, as follows:

YEAS—Messrs. Arzeno, Axford, H. Bartow, Ammon Brown, Asahel Brown, Bush, Crouse, Danforth, Fralick, Gibson, Lee, McLeod, Mowry, Newberry, Prevost, E. S. Robinson, Storey, Sturgis, President—19.

NAYS—Messrs. W. Adams, Alvord, Anderson, Bagg, Barnard, Beardsley, Beeson, Britain, Chandler, Choate, Church, J. Clark, Comstock, Conner, Cornell, Daniels, Eaton, Gale, Gardiner, Green, Hanscom, Hart, Harvey, Hascall, Kingsley, Leach, Lovell, McClelland, Morrison, Mosher, Orr, N. Pierce, Robertson, Rix, Robinson, Skinner, Soule, Town, Wait, Warden, Webster, Whipple, Whittemore, Williams—43.

The question being upon Mr. WOODMAN's amendment,

Mr. BUSH said—It is impossible to say what effect this constitution will have upon the country. The Legislature may be as able to know the wants of the people as the members of the Convention. At present we are groping in the dark.

Mr. BAGG—We cannot know the state of the finances at that time. I believe free schools may be established in less than five years. In Detroit we have a free school throughout the year. I am in favor of them as soon as practicable. It is right—it maintains an equilibrium between the poor and the rich. There is no fear of the poor getting the advantage of the rich in this or any other State.

The Legislature will have a great fund of wisdom to draw upon. They will increase their stock of knowledge from our debates. After getting these steeped down will they not have wisdom, do you think?

The amendment did not prevail.

The question recurring on Mr. CORNELL's instructions,

Mr. WOODMAN said he considered them a dead letter, and he hoped the friends of education would consider them so.

Mr. CHURCH said there was no stronger friend of education on the floor than the delegate from Jackson, [Mr. CORNELL;] and no other proposition had been offered so salutary as the one under consideration. He did not know why gentlemen should get up and constitute themselves the only friends of education.

Mr. J. D. PIERCE was not disposed to

put away certainty for uncertainty. The gentleman from Jackson might be a friend to free schools; but he (Mr. P.) thought their establishment would be very uncertain, if it were left with the Legislature to establish them as soon as practicable. Under such a provision he was apprehensive the gentleman from Kent [Mr. CHURCH] would not get his education before he was 60 years of age.

Mr. WOODMAN said the remarks of the gentleman from Kent were uncalled for. He had no intention of imputing anything wrong to the gentleman from Jackson, but he did not believe the people would be satisfied unless the matter was fixed by the Convention—that the Legislature shall carry it out, and not leave it indefinite.

Mr. J. D. PIERCE moved to strike out the words "as soon as practicable."

Mr. CORNELL said if they knew all the circumstances of the State, he should be willing to go for it. He believed the Legislature would be as well able to judge of it as the Convention. Suppose we say it shall be done in a given time, and they obey the mandate, but cannot carry out the system in the detail they wish; would it not fail? Would not the people say it is a failure, and nothing more be done about it? They will be urged to do it, and will be as anxious to carry it out as we are.

Mr. WALKER—The effect will be that they may, if they choose, establish free schools. Now, if the Legislature can be left as unbiased by lobbies as the Convention, they will carry it out. But members who were in the Legislature when petitions were sent for the establishment of free schools in Detroit, know that the most violent opposition was got up there; and violent opposition will be got up, when it shall be attempted in the Legislature to establish free schools throughout the State. Men of capital, and men without families, will resist the attempt to carry out the system. I would ask (said Mr. W.) the Convention to reflect before they abandon the system of free schools.

Mr. COMSTOCK did not believe in that influence. Would it not be exerted on one side as well as the other? It should be left to the representatives fresh from the people. The agricultural school is left open to be attained as soon as it can be reached, and so it should be in this case.

Mr. CORNELL hoped the gentleman from Macomb [Mr. WALKER] would decline a nomination for Congress, and that he would be returned to the Legislature, as he was such a warm friend of education.

Mr. CROUSE—Gentlemen seem to forget that we have free schools established through the State almost three months in the year. By the law, as it now stands, they may levy a tax on the district, which, with the money received from the school fund, will give a three months free school. Have they had free schools? No sir. The reason is because the money had to come from the pockets of the people. If the money could come from the school fund, every man would be in favor of it; but when they have to put their hands in their pockets and pay for it as they have done, they may not carry it out.

I am (said Mr. C.) for leaving it to the Legislature. If the people are prepared for it, the Legislature will make provision for it. If they are not, to establish it in the constitution, would render it odious to the people.

Mr. WOODMAN hoped the amendment of the gentleman would be adopted. The legislature have had this power and they have done nothing. The people expect we shall take action upon it. There is a feeling about it; the people expect the time to be fixed when free schools shall be established.

Mr. WILLIAMS said—I hope some positive features will be retained in this article. We have temporized on several matters, and introduced several provisions into the constitution already, which are perfectly unmeaning and futile. Let us retain one feature in this article that will possess some symptom of vitality.

If anything is demanded of this Convention, it is the establishment of a system of free schools. Now, what is a free school? It is a school where tuition shall be free to every child, no matter how ignorant and poor; no matter how secluded. The gentleman from Livingston, [Mr. CROUSE,] says we have a system of free schools already. Now, if I might use a common phrase of the day, I would say, "all but the free." Now, what are the facts? Does your system reach the poor and ignorant and ragged, who infest your

villages? Not at all. It never will while your rate bill is posted before the faces of the parents. They will neither pay voluntarily, nor take their tuition as a matter of charity. These are the very classes whom we wish to reach. From these classes, if they remain uneducated and unprovided for, will your poor houses and prisons be replenished. As compared with the education and protection of these unfortunate children, the education of the rich is of small account. They are sure to be educated without any system at all.

There is another reason why the present system is not a free system. It does not reach the secluded and sparsely populated districts. It is much more important to reach these than the populous districts. It is true that in the large villages, under the present law, we can create schools essentially free, and make them perfectly efficient. Such is the case in Ypsilanti, Marshall, Centreville, and other villages; but, within five miles of each of those villages, there are doubtless districts that never have a school; or, if so, a perfectly thriftless and valueless one. Now, in order to have a free school, it should be free as regards tuition; and in every district of the State a school should be necessarily kept three months in the year. The gentleman from Macomb [Mr. WALKER] offered an amendment to these instructions, to the effect that the legislature should be compelled to adopt, as the basis of a system, that all schools should be maintained at least three months in each year. Deprive any system of this feature in a country like ours, and you knock all vitality out of it.

If we cannot insert some period of time within which the legislature shall be enjoined to establish a system, let us strike out the meaningless phrase, "as soon as practicable." Let us leave some little vitality in the proposition of the gentleman from Jackson, [Mr. CORNELL.] I differ entirely from the gentleman before me, [Mr. CHURCH.] He thinks this proposition just the thing. I regard it as perfect milk and water.

It is said, leave this matter to the legislature. Are we not required to lay down a basis for the legislature with distinctness and definiteness? Does not public opinion require that we act? Nothing is more im-

perative on this body, in my estimation, than this very duty which we are about to shirk. For one, I am heartily tired with the declaration that the legislature will be so wise and pure that questions ought therefore to be left afloat and undetermined. There were certain questions we were expected to act upon with decision and independence, having regard only to their merits, and no regard to any consideration but our duty to decide principles in the fundamental law. Among the institutions we ought to feel bound by public sentiment to provide for, is a system of free schools; the essential and vital features of which should be defined. The legislature have had power over this subject, and they have done nothing since a free school system was demanded. One fact is sufficient to knock in the head two arguments at once. The gentleman before me prompts me and says, "knock them sky high!" Yes, that is the way one fact will knock two arguments—"knock them sky high." It is said, first, that this Convention is not expected to act at all; and again, in the next breath, that the legislature must be vested with the whole control. Now, it is a fact, for the truth of which I appeal to the members of that legislature now on this floor, that the last legislature actually refused to make any provision for free schools, because it would become the duty of this Convention to do so.

Mr. FRALICK was of opinion that the Convention were attempting to do too much. Had they done what they were sent to do, and gone home, the people would have been better satisfied. This seemed an attempt to grant some new power to the people; a power which they at present have, and when they choose they will exercise it. To say you will compel them to have free schools, may break the whole system down. I live near the gentleman from Oakland, and there is no such movement in my town as he represents.

Mr. WOODMAN said, four men—distinguished professional men—two of them clergymen, in the town in which the gentleman [Mr. FRALICK] resided, had urged on him [Mr. W.] to do the best he could for the establishment of free schools.

Mr. FRALICK—Perhaps it may be so. I have had letters from home which say nothing about it. I am in favor of free

schools; the system is carried out in our town. We have raised the full amount allowed by law. I have had no instructions, but I know that they only wish the present law amended. They wish the power of raising money in the districts taken away, and given to the townships, and raised by a general tax; and that will be done in time by the Legislature. To fix it in the constitution that a sum shall be raised specifically by law, is curious; because it is in the power of the Legislature at present. He [Mr. F.] had supposed the object of the Convention was, to put some restriction on the powers of the Legislature. He hoped the amendment of the gentleman from Jackson would be adopted; it would then be left in the hands of the people to carry out the free school system as they thought proper.

Mr. EATON hoped the amendment would prevail. He believed the people expected something to be done by the Convention towards establishing free schools, and something definite should be fixed. If left to the Legislature, they may never do it.

Mr. LEACH said he came here with the expectation that free schools would be established; but he believed the Convention would do nothing. The amendment of the gentleman from Jackson is nothing more than the provision in the old constitution. Free schools may not be established for ten or fifteen years. We are told that no petitions have been presented to the Convention. It was supposed the principle was so well understood, that there was no necessity for petitioning. It was supposed that every delegate coming here would advocate the measure. Now it is said we may not adopt the principle for three years, because we are not able to do it. One thing is certain, if we wish the children of the State to be instructed, the people of the State must be decided. They are the children of the State, and it is the duty of the State to educate them. Suppose we were to say that, for the next two or three years, we will not raise any thing for the support of government. They may as well say so on the ground of economy; for it is equally necessary that the children of the State should be educated, as the government to be supported.

In the Legislature of last winter, a pro-

position was made to raise two mills instead of one, for the support of schools. It was voted down, on the ground that, as the Convention was about to meet to revise the constitution, they would settle the whole matter. The friends of education and of free schools voted against it on that account. In villages and populous districts they have the power to raise a tax to carry on free schools; but how is it in the woods? Every man knows that they are not free there, and they cannot be under this law.

Mr. MOORE would suggest to the gentleman from Jackson to accept the proposition of his colleague. He saw no impropriety in striking out the words. The Legislature will have the power to carry it out as soon as practicable.

Mr. CROUSE—I would have submitted such a proposition, but it was urged that they would be obliged to do it the next session of the Legislature. I had no objection to leave it open, believing the Legislature would do it in one or two years. What do the arguments amount to? It is said we are called here to fix a system of free schools. Do not the people know we cannot do it? We may declare a principle, but we cannot go into detail; that is all we were asked to do. I believe the Legislature will carry it out as soon as if the time were fixed, and I would be willing to strike out the words "as soon as practicable," as suggested by the gentleman last up; but others would oppose it, because they believe it would make it obligatory on the next Legislature to do it.

Mr. MORRISON said he was desirous that it should be left obligatory on the Legislature to establish free schools. The gentleman from Jackson professes to favor the proposition in some shape; but the gentleman has a proposition of his own, and will not support any other. He [Mr. M.] had a proposition of his own, but as he could not get it in, he was disposed to take the next best. He deemed it to be in such a shape that nothing is left of it, except something that may lead the Legislature into difficulty on that subject.

The gentleman from St. Joseph says the Legislature will not carry it out. But will they not be as near to the people as we are? The sentiments, views and wishes of the people will be known to them. Fix

a provision that they shall establish a law; how can you make them carry it out? It may be said they will be bound. Suppose they are; they may get up a law which the people will reject; and if the people are opposed to it, they would be apt to get up a system that the people would reject.

Mr. GALE said there appeared some inconsistency in the arguments of gentlemen. They tell us the people call on us to carry it out, and are anxious for it; yet they say the Legislature will not do it. There was a reason why they did not do it last winter, because the Convention was about to meet. They wished to let the matter alone last winter; but will not leave it alone now unless you limit them. What is the conclusion? It is that the people do not want it. If they give us any credit for our opinions, and we say they shall do it as soon as practicable, will they not do it?

As to the article, it is no more like the provision on the subject in the old constitution, than black is like white. The present constitution says they shall establish primary schools. This says those schools shall be free. Does any one wish to have it carried out sooner than is practicable?

One word in regard to the unanimous opinion of the people in favor of free schools. I claim, sir, to be a strong advocate of free schools at home, and no man there will deny it. It may be denied here by persons not so well acquainted with my views. A person may be sincerely in favor of free schools, and yet may be disposed to leave the matter to the Legislature.

The question was taken on the motion to strike out "as soon as practicable," and lost.

Upon instructing, as proposed by Mr. CORNELL, the yeas and nays were ordered, and the result was as follows:

YEAS—Messrs. P. R. Adams, Arzeno, Axford, Bagg, Beardsley, Beeson, Ammon Brown, Asahel Brown, Bush, Butterfield, Carr, Chandler, Choate, Church, J. Clark, Comstock, Conner, Cornell, Crouse, Danforth, Daniels, Fralick, Gale, Gibson, Green, Hanscom, Hart, Hascall, Kingsley, Lee, McClelland, McLeod, Morrison, Mosher, Mowry, Newberry, Orr, Prevost, E. S. Robinson, Rix Robinson,

Storey, Town, Whipple, Whittemore, President—45.

NAYS—Messrs. W. Adams, Alvord, Anderson, Barnard, H. Bartow, Britain, Eaton, Gardiner, Harvey, Leach, J. D. Pierce, N. Pierce, Roberts, Robertson, Skinner, Soule, Sturgis, Wait, Walker, Warden, Webster, Williams, Woodman—23.

So the article was recommitted with the instructions proposed.

By unanimous consent of the Convention, the section proposed by Mr. WHIPPLE yesterday, and adopted, was amended by striking out "1852," and inserting "1851."

On motion of Mr. FRALICK, the article entitled "Township Officers and Government" was taken from the table.

The question being upon concurring in the amendments made in committee,

Mr. WOODMAN moved to amend the substitute reported for section 1, by striking out "four," before "constables," and inserting "two;" but the amendment was lost.

Mr. WOODMAN moved to smend the same by striking out before "school inspector," the word "one," and inserting "two;" but the Convention refused to strike out.

Mr. GALE moved to amend by inserting after "school inspector," the words "two highway commissioners, and one overseer of the poor;" but the amendment was not agreed to.

Mr. GALE moved to amend by striking out "four," where it occurred relative to justices of the peace, and inserting "one."

Mr. CORNELL moved to amend by inserting "three."

A division was had, and the motion to strike out was lost.

Mr. CORNELL moved to strike out "not exceeding four constables;" but the amendment did not prevail.

Mr. N. PIERCE moved to strike out "four constables."

Mr. P. said—We do not want any constables at all. We have abolished collection laws, we have exempted all property from execution, and abolished capital punishment. What do you want constables for? It will be like a man keeping a dog to worry his own sheep. We only want one constable and one justice of the peace, and the only business he will have to do will be to marry a few couples. I would call the attention of the Convention to the

fact that we are not going to have any crimes—we are not going to collect anything—there will be no suits—we shall do it up in the way of love.

There is no use in it. It will only make four lazy men in every township. When a man has an office he will not work. I think gentlemen will see the propriety of it. More property is exempted from collection, by several millions, than the aggregate valuation made by the assessors in the State. We shall not need these officers, or judges, until the property of the State shall have increased.

The motion did not prevail.

Mr. J. D. PIERCE hoped the substitute would not be adopted. It appeared to him that we should have a civil army to carry on our township and county government.

Mr. FRALICK was in favor of curtailing expenses in townships; but the expenses were not increased by the multiplication of a few small offices. The only difference would be one person would get more pay. If the number were limited, the business would be done by a better class of persons. He would not take action on this in the Convention. Adopt the substitute, and it leaves the present offices; and when the Legislature think fit they can abolish or alter them. He (Mr. F.) did not want to put any more clogs in the constitution.

Mr. J. D. PIERCE said this was the first occasion in which the gentleman [Mr. FRALICK] has opposed anything likely to curtail expense. The question is whether the township shall pay three dollars a day, or eight dollars a day. The business may as well be done by three officers, the supervisor, the collector and a commissioner of highways, as well as by eight officers. There are something like twenty-one officers in a township, exclusive of the overseers of highways. From three to five persons can do all the duties in a township.

Mr. FRALICK would have no objection to such a provision being adopted by legislative enactments. His objection was to placing it in the constitution. It has always been competent for the Legislature to act upon it. The election of constables, as regards the number, rests with the people; so of assessors. They can take ac-

tion on it by a vote, on the morning of the township meeting. He would leave it to the Legislature; they would act in accordance with the wishes of the people on this matter.

Mr. WOODMAN moved to amend by inserting after the words "township clerk," the words "who shall be ex-officio school inspector."

And the same prevailed by yeas 32, nays 26.

Mr. FRALICK offered the following as a substitute for the one reported by the committee:

"All city, town and village officers, whose election or appointment is not provided for by this constitution, shall be elected by the electors of such cities, towns and villages, and of some division thereof, or appointed by such authorities thereof, as the legislature shall designate for that purpose. All other officers whose election or appointment is not provided for by this constitution, and all officers whose offices may hereafter be created by law, shall be elected by the people, or appointed, as the legislature may direct."

Which was not agreed to.

Mr. NEWBERRY moved to amend the substitute reported by the committee by inserting after "school inspector," the words "one highway commissioner;" which was lost.

Mr. CORNELL moved to amend by striking out "four," where it occurs relative to justices of the peace, and insert "two."

Mr. C. said—Gentlemen must be aware of the fact that it was difficult to get men to take the office of magistrate. There was but little business to do, not sufficient to induce persons to qualify. One or two justices would do all the business. If a less number were elected, we should have better men to perform the duties.

The amendment did not prevail.

Mr. GALE moved to strike out "one township treasurer;" which was not agreed to.

The substitute proposed by the committee was then concurred in.

The second amendment made in committee, being a new section to the article, was also concurred in.

The third amendment being under consideration,

Mr. BRITAIN moved to amend the same by inserting in the additional section proposed, after the word "left," as follows: "shall consist of one or more full United States surveyed townships, and;" and the amendment was agreed to.

Mr. ARZENO moved to add to the section proposed by the committee as follows:

"Provided, That no township in any county that shall have been organized for the term of twenty years previous to the adoption of this constitution, shall be divided without the consent of the majority of the votes thereof, expressed in a manner to be provided by law."

Mr. CORNELL moved to strike out "twenty," and insert "twelve."

Mr. McCLELLAND said—It appears to me the proposition ought to meet the approbation of the Convention. The object of the gentleman from Berrien is to prevent imposition taking place in newly organized counties; but if applied to old townships it will create difficulty. The boards of supervisors are large enough; if the townships are cut up, you will have larger boards than are necessary; in fact some of the boards in counties are now too large. It will apply to old counties. There are many counties in the State which will probably be cut up and divided into one-third more townships than they now have.

Mr. BRITAIN said the object was only to secure to the people their rights in new counties. Had he not seen the people robbed of their rights, he should not have thought of it. How are those generally formed? Why, sir, there is usually some little village where the business is done; perhaps there may be three or four in the same organization. Now, sir, will they not hold them as long as possible to do their township business there, and prevent them from enjoying their rights, by preventing the organization of school districts, and everything on which the prosperity of a new township depends.

As the bill now stands, it is more objectionable than ever. In the legislature you have no prejudices to contend with; but now, sir, you put it into the hands of the supervisors, who are interested in preventing those new organizations, for their own benefit. It is not a false picture—it is true to the life.

I have been acquainted with the organization of new counties since 1829; with every one west of Washtenaw. I cannot consent to go for this, and am desirous of recording my vote against it; as I believe it will retard the prosperity of new townships. You should give them power to lay out roads, and make a center in each new township to induce persons to settle among them.

Mr. DANIELS—I do not fully understand the question, but it appears to be obligatory on the board of supervisors; and another on the Legislature, that they should divide the townships. He had never seen any evils growing out of it.

Mr. BRITAIN—The gentleman says the language is positive. Will he point it to me?

Mr. CHURCH directed Mr. BRITAIN's attention to an amendment to section 12 of article entitled "County Government."

Mr. BRITAIN was aware of that; but it will be seen that they cannot go for a special law for themselves—they can only go to amend the law of the supervisors.

The gentleman says he has never seen any evils growing out of it. I (said Mr. B.) have seen the evils of it repeatedly. I have known instances where two hundred and fifty inhabitants could not get an organization, because the inhabitants of the older settled parts were opposed. I do not rise here because it is a privilege to get up and labor in this Convention. I get up under a sense of duty to my constituents. Sir, is it a privilege, I ask, or is it a right? Who can consider it a privilege, under the sarcasm of members, and the charges made out of doors that I have occupied four times the time that other persons have?

Mr. ALVORD—I do not rise to argue the question—I do not feel any particular interest in it; but I would answer the gentleman from Berrien, as he alludes to me—

Mr. BRITAIN—How does he know?

Mr. ALVORD—I expressed an opinion yesterday. I will only say that those remarks were intended to be general. I said that certain members had consumed a vast amount of the time of this Convention by constantly jumping up and boring us with loud sounding speeches upon every unimportant question, merely to enter-

tain us with their peculiar views, and to be placed right before their constituents; that some gentlemen seemed, by their actions, to suppose it absolutely necessary that the marks of their superior wisdom should be placed on every part of the constitution; that each delegate upon this floor had an equal right to be heard, but, if all should occupy as much time as do some gentlemen, our labors would never be brought to a close. I think the Convention might possibly get along if some gentlemen should withhold the light of their "views"—

The PRESIDENT—The gentleman from Wayne is out of order.

(Cries of "go on, go on.")

Mr. A. continued—If the gentleman from Berrien thinks my remarks yesterday applicable to himself, (and perhaps they are,) he may so apply them. I have a high opinion of that gentleman's views on most subjects; but his great desire to appear "right before the people," seems to have become a ruling passion, and misleads his better judgment.

All know that there has been a great waste of time in this Convention in speeches for buncombe. For one, I am heartily tired of it. It is time our labors were concluded. So say the press throughout the State, and so say the people who sent us here. They do not deal in buncombe themselves, and they still hold their servants responsible for any waste of their time, and money expended.

"When caps into the ring are thrown,

Which each one claims he makes his own."

The gentleman from Berrien should have remembered this old couplet, and saved himself from the ridiculous position in which he now stands by taking my remarks of yesterday to himself.

I think all the leading principles to be embraced in the amended constitution have been sufficiently examined and discussed; and all that now remains for us to do is to come at once to a direct vote upon all questions that come up, bring our labors to a close, and return to our homes.

Mr. DANIELS did not concur in the apprehension of the gentleman from Berrien, [Mr. BRITAIN,] relative to injuries being done to townships; the power would be with the supervisors, and the supervisors will be within the reach of the people.

Mr. BRITAIN—I know it, but they may not be willing to do it; and I have given my reasons why they will not be willing.

"Twenty" was stricken out and "twelve" inserted, and the amendment as amended was agreed to.

The question being upon concurring in the section as amended, the yeas and nays were had thereon, with the following result:

YEAS—Messrs. W. Adams, Anderson, Arzeno, Bagg, Beeson, Britain, Asahel Brown, Butterfield, Chandler, Choate, Conner, Eaton, Gardiner, Green, Hascall, McClelland, Newberry, Robertson, Town, Whipple, Williams, Woodman—22.

NAYS—Messrs. P. R. Adams, Alvord, Barnard, H. Bartow, Beardsley, Ammon Brown, Bush, Carr, Church, Comstock, Crouse, Daniels, Fralick, Gale, Gibson, Hanscom, Hart, Harvey, Lee, Lovell, Morrison, Mosher, Mowry, Orr, J. D. Pierce, N. Pierce, Prevost, E. S. Robinson, Rix Robinson, Skinner, Soule, Storey, Sturgis, Wait, Walker, Warden, Webster, Whittemore, President—39.

So the section reported by the committee, as amended, was non-concurred in.

The article was then ordered to a third reading.

On motion of Mr. HART, four members were directed to be added to the committee on the schedule.

On motion of Mr. BRITAIN, the communication of Mr. J. COATES, tendering his resignation, was taken from the table.

Mr. BRITAIN moved that Mr. COATES have leave to withdraw his communication; and leave was granted.

On motion of Mr. CROUSE, the Convention adjourned.

Afternoon Session.

The PRESIDENT called the Convention to order.

Mr. WALKER, from the committee on education, reported back the article entitled "Education," amended according to instructions.

Mr. CROUSE moved to amend the article by striking from the 10th section all after "improvement," in the 2nd line, to

and inclusive of the word "farm," in the 8th line.

The amendment was negatived by yeas 18, nays 44.

Mr. EATON moved the previous question, and the same being demanded, the main question was ordered to be now put.

The question being upon ordering the article to a third reading, the yeas and nays were had, with the following result:

YEAS—Messrs. P. R. Adams, Butterfield, Carr, Chandler, Church, Comstock, Conner, Eaton, Fralick, Green, Harvey, Hascall, McClelland, Morrison, Mosher, Mowry, Newberry, Orr, E. S. Robinson, Rix Robinson, Soule, Storey, Sturgis, Town, Van Valkenburgh, Whipple, Whittemore, Williams—28.

NAYS—Messrs. W. Adams, Alvord, Anderson, Arzeno, Axford, Bagg, Barnard, H. Bartow, Beardsley, Britain, Ammon Brown, Asahel Brown, Choate, Cornell, Crouse, Gale, Gardiner, Gibson, Hart, Kingsley, Leach, Lovell, McLeod, J. D. Pierce, N. Pierce, Prevost, Skinner, Wait, Walker, Warden, Webster, Woodman, President—33.

So the article was not ordered to a third reading.

Mr. J. D. PIERCE moved to reconsider the last vote.

Mr. J. D. PIERCE said—Mr. President, I trust that this bill will yet be perfected, so that it can be passed by a decided majority of this Convention. The system of free schools had the decided approbation of the Convention, at the commencement of its sitting; but a provision has been adopted which destroys that principle. I make this motion (said Mr. P.) to give an expression of my reasons for my vote.

The motion to reconsider prevailed; and the article was laid on the table.

The PRESIDENT presented the petition of I. Follensbee and fifteen others, relative to a provision making it the duty of the Legislature to endeavor to obtain from the United States a cession of certain public lands; referred to the committee on miscellaneous provisions.

On motion of Mr. MORRISON, the Convention resolved itself into committee of the whole, on the resolution offered by Mr. MOORE, relative to the appointment of a board of commissioners to revise the rules, &c., of the courts of record in this

State, &c., Mr. McCLELLAND in the chair.

On motion of Mr. ROBERTSON, all after the word "resolved" was stricken out.

On motion of Mr. WALKER, the committee rose, reported the resolution back, recommending that all after the resolving clause be stricken out.

On motion of Mr. WHIPPLE, the resolution was laid upon the table.

Mr. LEACH offered the following:

Resolved, That the committee on supplies be instructed to report to the Convention to-morrow, the amount and kind of stationery purchased for the use of the Convention, and the price paid for the same.

Mr. HANSCOM made a verbal statement relative to the purchase of stationery for the use of the Convention, which had been put under the charge of the Secretary of the Convention, with whom also had been deposited the bills; which were open for the inspection of members. Mr. H. said the expenses of the Convention for stationery, incidental expenses and postage would be reduced over three-fourths below any other deliberative body, by the action of the committee on supplies.

Mr. WOODMAN moved that the report of the chairman of the committee on supplies be accepted.

Mr. LEACH hoped it would not be adopted. The report was not satisfactory to him. He was not alone in wishing to know what had been purchased and the prices paid.

Mr. WOODMAN thought the statement satisfactory as far as the chairman was concerned. If any delegate wanted further information, it could be obtained from the Secretary.

Mr. HANSCOM said he would submit a report in writing; and the motion was withdrawn.

The PRESIDENT announced the following additional members to the committee on the schedule: Messrs. McCLELLAND, WHIPPLE, WALKER, and WHITTEMORE.

Mr. BEARDSLEY moved to reconsider the vote by which the Convention refused to order to a third reading the resolutions reported by the select committee on the license laws.

Mr. BAGG moved a call of the Convention; but the call was not sustained.

The motion to reconsider was lost—yeas 31; nays 37.

Mr. WOODMAN offered the following:

Resolved, That the messengers of this Convention be allowed one and a half dollars per diem, for their services during the sitting of this Convention.

Mr. FRALICK asked the yeas and nays; and the same being ordered, the resolution prevailed—yeas 48; nays 11.

Mr. McCLELLAND moved to adjourn; but the Convention refused to adjourn.

On motion of Mr. CORNELL,

Resolved, That the Sergeant-at-arms be required to procure a quantity of unslaked lime, or chloride of lime, to be used in and about the representative hall, and the out-buildings connected therewith.

Mr. McLEOD moved to adjourn; but the Convention refused to adjourn.

Mr. ALVORD offered the following:

Resolved, That the committee on arrangement and phraseology be instructed to strike out from section five of the article on the Legislative Department, all after the word "district," in line three.

Mr. A. said he offered the resolution for the purpose of bringing the matter again under the consideration of the Convention. This section was highly objectionable to many members of the Convention, and he hoped it would not finally be adopted. In the first place, he did not believe the people expected that the Convention would adopt single representative districts. That they had given expression in favor of single senatorial districts he denied. By striking out the section, it would leave those counties which were entitled to two Senators, to elect them by general ticket in the county. In the county of Wayne, it would be found very inconvenient to district. It would be a privilege to elect by general ticket.

Mr. A. moved to lay the resolution on the table.

Mr. BAGG hoped his colleague would withdraw his motion to lay upon the table.

Mr. ALVORD withdrew with the understanding that he would renew it after his colleague had said what he had to say.

Mr. BAGG then said—Mr. President, this Convention well knows my mind upon this subject. They well know my whole energies of soul and body have been engaged, during our sitting here, to thwart

the single district projects, of its friends, from first to last. It was reported by the legislative committee; debated day after day in committee of the whole; attempted to be reconsidered without effect while in that committee, under the rule, and attempted to be recommitted with instructions. The same process awaited its paramount importance in Convention; but there met the same fate as in committee of the whole, and finally took its several readings, was passed and sent to the committee on arrangement and *proseology*—the last resort of parliamentary law and usage, to which committee, both its friends and enemies, long since supposed it had gone to rest, never to be again disturbed by this body—utterly turfed beyond the hopes or fears of either—beyond the hope of resurrection. Yet, there were those here, that notwithstanding this article had been passed upon by a full Convention, before our ranks had been thinned by disease and other causes, to but little above a quorum, as at the present moment, who again attempt to resuscitate it. When was this guerilla warfare of legislation to cease? When this constant, interminable and eternal opposition of the minority to end? We had had it repeatedly in the same manner from other quarters, on other articles in the same condition. He had heard of such principles in deliberative bodies as decency, decorum, order and consistency! Was this Convention to terminate its deliberations in anarchy and confusion? He trusted not. His whole heart and soul, he repeated, had been with his colleague on this subject, and was there still, and probably ever would be. He knew the single district system, senatorial or otherwise, was not democratic, let it come from what source it might. Its establishment would revolutionize the banner State of democracy, and change it to the opposition. It was too late to repent when the devil had actually come. It was too late now to remedy the evil. The democratic press had caused the mischief. He knew when he was fairly whipped, and had too much honor and self-respect to combat it longer. He should bear the sacrifice with composure. He had never made anything out of politics; but, on the contrary, sunk thousands. It was not self-interest that governed him in his action on this or any

other subject. These gentleman wish to refer these spent balls, these longed for morsels of interest, to the committee on arrangement and phraseology. Do gentlemen think that this committee have power to change general principles? Why, sir, their only use, authority and power, appertain to matters of form, instead of substance. That is their only duty. The gentleman from Wayne, [Mr. ALVORD,] is always croaking and harping about our slowness in getting through with our deliberations. No longer ago than yesterday he whined like a whipped spaniel about going home, either for buncombe or otherwise; and yet he is found in these guerilla ranks, impeding our progress from day to day, by moves and motions like this.

The CHAIR—The gentleman is out of order.

Mr. BAGG—On what ground?

The CHAIR—The gentleman is using personalities.

Mr. BAGG—It is not personal, if the President knew it—it is a simple comparison. Cannot I make a comparison?

[Cries of "go on, go on."]

Mr. BAGG resumed—He trusted the Convention would put an eternal quietus on this, as well as its kindred propositions. He was heartily sick of this interminable scramble, to see who should be foremost to exhume the carcass of any entombed negative principle, that had long since met its fate.

Mr. ALVORD said he offered the resolution in good faith, believing if it were laid on the table and brought up at some other time, it might be compromised. It was said by his colleague [Mr. BAGG] that they were whipped out. He (Mr. A.) believed they had been whipped unfairly. The Convention had decided on adopting single senatorial districts. We now (said Mr. A.) throw ourselves on the generosity of the Convention and ask that those large counties may be left to elect their senators by general ticket.

Mr. McCLELLAND—I question whether the resolution is in order. If it is then we are at sea again. The article has gone through its regular parliamentary course and has been concluded. I was opposed to single senatorial districts; but I ask if it would not be taking an unfair advantage of those gentlemen who felt a deep inter-

est in the matter, and who have gone home under an impression that the question was settled, and that it would not be raised again. I raise the point of order, that a resolution, without going through the forms prescribed by the rules, directing a committee to substantially change any article passed by the Convention, cannot be entertained.

Mr. WHIPPLE—There seems to be a misunderstanding with regard to the powers with which the committee on arrangement and phraseology are clothed. The powers of that committee embrace two objects. One object is to give the various matters in the articles a proper arrangement; and if the phraseology is improper, simply to correct it. But they have no more power to change the meaning than any other member of the Convention. The very name of the committee implies its duties; they have no power to change the sense of any part of any article.

Mr. CHURCH—I ask what became of the two-thirds rule in the old Convention?

Mr. WHIPPLE—The committee reported a change, and asked the consent of the Convention, as the present committee may do. I think the committee on phraseology have no right to make any change except in phraseology.

Mr. HASCALL—Can they not change a section?

Mr. WHIPPLE—I think not, sir. Each article goes through the parliamentary course of proceedings. Three days are allowed by the rules for reconsideration. After that it is entirely beyond the reach of the Convention. Can it be said that when you cannot reconsider an article that a member can get round it by moving that the committee on phraseology be instructed to amend? Why, sir, if that were allowed, we should remain here till doomsday. There is not one article that was unanimously concurred in, and members may get up and offer resolutions for amendment according to their own views.

I concur with the gentleman who has offered the resolution, in his views with regard to the senatorial districts; but the Convention have decided differently, and I would never get up and move an amendment after the deliberate sense of the Convention has been had, as the sole effect

will be to occupy the time, and delay the adjournment.

Mr. ALVORD—I did not rise in rebellion, but as a suppliant; as my friend [Dr. BAGGE] says we have been whipped. I hoped gentlemen would exercise some mercy. Believing that great inconvenience will arise from a division of counties into single senatorial districts, I had hoped that gentlemen would have reconsidered the matter.

Mr. McLEOD—So far as the impolicy of pursuing this course is concerned, I entirely agree with the gentleman from Monroe, [Mr. McCLELLAND.] But so far as the technical question is concerned, I am not prepared to coincide with his views. According to my views, the committee would have no right to originate a change, except it would be justified by the original terms of the article. But we know it is common in parliamentary practice to refer to committees who have no natural connection with the subject. I consider this committee on phraseology one of the most important in the Convention. So it has been considered by the members of the Convention, as they have appointed the strongest men in the Convention upon this committee. They are not mere clerks, but have a general supervisory power to bring the several articles which have been passed before the Convention, into proper shape and order. I think (said Mr. McL.) it is entirely within the power of the Convention to give them instruction. Still a great inconvenience may arise from gentlemen proceeding in this mode; but it is incident to the forms of legislation. If it is abused it must be corrected by the good sense of the Convention.

Mr. McCLELLAND said—Under parliamentary rules, a bill is read a first and second time, and after being perfected, goes through its several stages, to the committee on enrollment. Suppose a person objected to some part of the bill, and had stated his objection in all the stages in which it was open to amendment. He would ask if he could get up and offer to instruct the committee on enrollment? The mode of correcting an article must be by the rules, step by step, as in the case of a bill.

Mr. McLEOD said the argument of the gentleman from Monroe, [Mr. McCLELL-

LAND,] was correct, as far as it was applicable; but the Convention had no such committee.

Mr. McCLELLAND—The committee on arrangement and phraseology stand in the place of the committee on enrollment in a legislative body. Suppose the committee on enrollment find the language of a bill entirely different from what was understood by the body which passed it; they cannot change it. They do not bring in a resolution, but come and ask the unanimous consent of the body. If that consent is not obtained, they must introduce an amendment to the bill, which must go through its regular forms. I agree with the gentleman as to the powers of the committee on phraseology. It is their duty not only to correct every improper phraseology, but to look at the meaning the Convention intended to convey. If it does not convey the intention of the body, they recommend a change to the Convention.

Mr. McLEOD—Then the Convention have control over an article after its final passage.

Mr. McCLELLAND—They have. But the idea is this: they cannot alter any passage or measure because they think it would not be salutary. The idea intended to be conveyed by the Convention, is what they should aim at; and if any alteration is necessary to carry that out, then they may make it, but it must be with the consent of the Convention. The committee on enrollment do the same thing. When a bill is in their hands, no person can get up and offer a resolution to change any portion of it.

Mr. HASCALL—Then the Convention will have its hands tied up.

Mr. McCLELLAND—The rules can be suspended by a two-thirds vote; and if there should be any thing obviously wrong, the Convention will suspend the rules, as a matter of course.

The PRESIDENT stated it to be his opinion that the resolution was out of order, and could not be entertained. If any member, after an article had passed, could offer a resolution to make a substantial change, it would lead to much inconvenience. It does not put the article out of the hands of the Convention. The Convention can suspend its rules. If the committee report any substantial alterations,

the Convention must adopt that course, if not acceded to by unanimous consent.

Mr. J. D. PIERCE moved that the article entitled "Education," be taken from the table and recommitted to the committee on education.

Mr. CHURCH—I am opposed to recommitment. It may go again through the hands of the committee and be reported back, and patch work made of it. While there is so much difference of opinion on the subject in the Convention, the recommendation of that committee will have no more influence on this body than the motion of an individual. The clause in the article in regard to free schools came before the Convention with the unanimous recommendation of the committee, yet it did not stand the first shot. The article has been so long before the committee that I hope it will not be recommitted.

Mr. N. PIERCE hoped that it would be recommitted, that some arrangement might be made by which it would pass.

Mr. J. D. PIERCE wished to make an effort to harmonize on the article, so that it would not be lost. He thought the committee might devise something to harmonize the Convention.

Mr. CHURCH would ask how the gentleman could attain the object more through the committee than by any other way? It was an object the gentleman from Calhoun [Mr. J. D. PIERCE] had much at heart; and he [Mr. C.] was disposed to facilitate it as much as possible.

Mr. BUTTERFIELD regretted that the labors of the committee on Education had not been more successful; perhaps the President might have been unfortunate in the selection of that committee; but he [Mr. B.] was not disposed to make any remarks on the allusions made by the gentleman from Kent [Mr. CHURCH] to that committee. The measure of the gentleman from Calhoun [Mr. J. D. PIERCE] was a laudable one. It was the object of the friends of education to make a final effort, that the bill might be perfected so as to meet the sanction of the Convention.

Mr. GREEN inquired if the committee had not a resolution before them in relation to free schools? He believed the people in his section of country did not expect any such thing. They wish the Con-

vention to express an opinion, but to leave it to the Legislature to carry it out.

Mr. COMSTOCK—My colleague expresses the views of the people in my section of country correctly. They are in favor of free schools, but they would leave it to the Legislature to carry out the details.

The motion of Mr. J. D. PIERCE prevailed.

Mr. CHURCH, from the committee on miscellaneous provisions, reported back sundry resolutions, from which they asked to be and were discharged.

Also, a petition referred to that committee, praying for the incorporation of a provision in the constitution prohibiting ministers of the gospel from holding any office of honor or profit in the State; reporting adverse to the prayer of the petitioners.

The report was accepted and the committee discharged.

Mr. CHURCH, from the same committee, reported

ARTICLE —.

Miscellaneous Provisions.

Sec. 1. Members of the Legislature, and all officers, executive and judicial, except such inferior officers as may by law be exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be,) that I will support the constitution of the United States and the constitution of this State, and that I will faithfully discharge the duties of the office of — according to the best of my ability." And no other oath, declaration or test shall be required as a qualification for any office or public trust.

Sec. 2. Lands now flowed, and unimproved lands which may hereafter be flowed, by the erection of mill dams, shall be paid for in the manner to be provided by law; and the actual value of the land flowed shall be determined by a jury of freeholders; and such value and the expenses of determining the same shall be paid by the party erecting the dam.

Sec. 3. When private property is taken for the use or benefit of the public, the necessity for using such property, and the just compensation to be made therefor, (except when to be made by the State,) shall be ascertained by a jury of twelve free-

holders, residing in the vicinity of such property, or by not less than three commissioners, appointed by a court of record, as shall be prescribed by law.

Sec. 4. No mechanical trade shall hereafter be taught to convicts in the State prison of this State, except the manufacture of those articles of which the chief supply for home consumption is imported from other States or countries.

Sec. 5. All rivers and streams of water in this State, in all places where the same have been meandered and returned as navigable by the surveyors of the United States, are hereby declared navigable to such an extent that no dam, bridge, or other obstruction may be made in or over the same without authority, granted by the Supreme Court, under a general law to be enacted by the Legislature of this State.

Sec. 6. To promote the early sale and settlement of the unappropriated public lands now held by the United States exempt from taxation, within this State, the Legislature is hereby authorized to take all necessary and proper steps to procure a cession of said lands to the State, whenever they can be obtained on just and advantageous terms; and whatever sum, if any, shall be realized from the sales of the land so acquired, after re-paying to the State the amount of all advances made on account of the purchase, management, sale and settlement of the same, together with interest thereon, shall constitute a permanent fund, for the benefit of education and the support of such deaf, dumb, blind and insane persons as are unable to support themselves.

Sec. 7. The Legislature may declare the cases in which any office shall be deemed vacant, and also the manner of filling the vacancy, where no provision is made for that purpose in this constitution.

Sec. 8. All commissions, issued to persons holding office under the provisions of this constitution, shall be in the name and by the authority of the people of the State of Michigan, sealed with the great seal of the State, signed by the Governor, and countersigned by the Secretary of State.

Which was read the first and second time by its title, referred to the committee of the whole, and ordered printed.

Mr. J. CLARK offered the following, which was laid upon the table:

Resolved, That the committee on ar-

rangement and phraseology report to this Convention any and all changes made by them in the articles, when reported by them to the Convention.

On motion of Mr. CHURCH,

Resolved, That the committee on the governmental and judicial policy of the upper peninsula, &c., and the committee upon the mode of revising the constitution, be and the same are hereby instructed to report forthwith to this Convention upon the subjects severally and especially committed to them.

On motion of Mr. DANFORTH, the Convention adjourned.

WEDNESDAY, (50th day,) August 7.

The Convention was called to order by the PRESIDENT.

Prayer by the Rev. Mr. SANFORD.

PETITIONS.

By Mr. BEESON: of George Goodman, W. H. McComber and 147 others, praying the incorporation by the Convention of a clause in the constitution prohibiting the collection of all debts of a less amount than one hundred dollars, if contracted after the adoption of the constitution. Referred to the committee on the legislative department.

REPORTS.

Mr. HANSCOM submitted the following:

Pursuant to the instructions of the Convention, the committee on supplies and expenditures respectfully report: That they have purchased the amount and kind of stationery specifically stated and set forth in the bills now in the hands of the Secretary of the Convention, numbered from one to five inclusive, and made a part of this report; that bills for some small amounts purchased in this village, have not as yet been presented and filed; that one considerable item of expense incurred consisted of purchases of appropriate materials to carry out the resolution of the Convention upon the melancholy announcement of the death of General Taylor, late President of the United States. The committee respectfully refer the Convention to the proceedings of the 5th and 19th of June.

On the last named day the chairman of

your committee proposed to the Convention the following resolutions, in obedience to the wishes of the committee:

Resolved, That from and after this day, the post master of this village be not authorized to charge to the Convention or State any postage on any mailable matter, sent or mailed by members or officers of the Convention, and that the Secretary notify the post master accordingly.

Resolved, That from and after this date there be printed for the use of the Convention but 240 copies of the journal.

The passage of the resolutions had the effect to reduce the daily current and incidental expenses of the Convention to an amount varying from thirty-five to fifty dollars.

The committee also suggest, that by reason of the system of reporting, adopted by order of the Convention, an increased quantity of stationery has been necessarily required; and that for the purpose of making that branch of duties as effectually performed as practicable, and at the urgent request of the reporters, your committee purchased twelve reporter's pens, with gold points, at a cost of one dollar each. One-half have been already placed in the hands of the reporters and secretaries of the Convention. The balance, in conjunction with a large amount of the stationery purchased—ink, sand, wax, wafers, envelopes, &c., &c., will be on hand and unused, and by the Secretary of this Convention, delivered over to the Secretary of State for the use of the State.

A comparison of the current and incidental expenses of this Convention (aside from pay of members) with former Constitutional Conventions or legislative bodies in this State, number of members and officers and length of session considered, show, as your committee believe, a reduction of nearly two-thirds, and a consequent saving, to the amount of several thousands of dollars, to the tax payers of the State.

Mr. WEBSTER moved that the bills be read.

The bills of stationery were accordingly read.

Mr. GALE moved that the bills just read be printed upon the journal.

Mr. BUSH hoped the gentleman would give his reasons.

Mr. GALE did not know why it should not go upon the journal. He wanted it for reference, to look over the bills at his leisure.

Mr. ROBERTSON thought that the journal was a record of our daily proceedings. What this had to do upon the journal he did not know. Was it to send it down to posterity? If the gentleman wants a printed copy, let him make a motion of the kind, so that he can send it to his constituents.

Mr. GALE—I can take care of my own constituents, without any help from the gentleman from Macomb.

Mr. McLEOD—Posterity may be much gratified at hearing the price of red tape, sand and sealing wax.

Mr. GALE—There are some who care nothing about expenses—who do not stop at red tape and sealing wax. I hope it will be printed.

Mr. CORNELL—I hope the gentleman will have no objection to having it printed in a separate report. That would be a more consistent course. I hope he will take that method.

Mr. GALE—I withdraw the motion.

Mr. WALKER, from the committee on education, reported back the article entitled "Education," with the following amendments thereto:

1. Strike out section 3, and substitute therefor: "The Legislature shall, within five years from the adoption of this constitution, provide for and establish a system of common schools. Such schools shall be kept without charge for tuition for at least three months in each year, in every school district in the State."

2. Also insert in section 5, at the end of line 3: "With the privilege of speaking, but not of voting."

3. Also strike out in section 10, line 3, the words "with a model farm in connection therewith;" and in lines 6 and 8, the words "and farm."

Mr. BRITAIN moved to lay the report on the table; but the motion was lost.

The question being on concurring in the substitute reported by the committee for section 3,

Mr. J. D. PIERCE inquired if the word "free" was in the amendment.

Mr. WALKER said he believed not.

Mr. BRITAIN hoped it would be laid up-

on the table at present, so that it might be examined more carefully.

Mr. ALVORD moved to amend the same by striking out the words "within five years."

Mr. WILLIAMS demanded the yeas and nays.

Mr. WALKER—I wish to state that it is not worded so as to express the peculiar views of the committee, but because it is thought to embody the deliberate opinion of a majority of the Convention. I shall be compelled to vote against it, although originally in favor of it. If struck out, it may defeat the bill.

The motion was lost—yeas 6, nays 61.

Mr. BRITAIN moved to add to the substitute, "and all instruction in said schools shall be conducted in the English language;" which was accepted by the chairman, on the part of the committee on education, and the addition was so made.

Mr. FRALICK offered the following substitute for the one proposed by the committee, which was not agreed to:

"The Legislature shall provide for a system of primary schools, by which a school shall be kept and supported in each school district, at least three months in every year; and any school district neglecting to keep up and support such school, may be deprived of its equal proportion of the interest of the public fund. And the Legislature may provide for levying a tax on the taxable property of the several townships and cities of this State, for the support of said schools."

Mr. BEARDSLEY moved to amend the proposition of the committee by striking out "for at least three months in each year."

But the Convention refused to strike out; and the substitute reported by the committee for section three was then concurred in.

The second amendment was also concurred in; yeas 41, nays 29.

Mr. BAGG inquired if a substitute would be in order for section four.

Mr. WHIPPLE rose to a point of order. He believed that there was a substitute already under consideration.

Mr. BAGG offered the following substitute for section four:

"There shall be elected at the first gen-

eral election for judges in this State after the ratification of this constitution, twelve regents of the University; four for the term of six years, four for the term of four years, and four for two years; and at each subsequent election for judges, there shall be four regents of the University elected, who shall hold their office for the term of six years."

Mr. B. hoped the substitute just offered by himself would prevail. His democratic feelings would not permit him to vote for the section as it stood. Every officer to be elected under this new constitution, is to be elected by the people direct. He could not consent that this only blot and blemish, savoring of federalism, should be permitted to remain. Gentlemen agreed that the regents of this institution should be placed beyond the operation and effects of party, and therefore should be elected by the Legislature. Would this remove the objection? Would the Legislature be any less free from the machinery of party? Certainly not. That arena was as liable to be affected by party as the general election by the people themselves. The substitute proposed to elect the regents of the University at the same time and in the same manner as the circuit judges. Were the regents of the University of more consequence than your judges of the Supreme Court? Was not the judiciary at the very base of your government? Did not these judges adjudicate on the whole, ultimately? If so, was not what was applicable to one applicable to the other? He could see no difference.

The article now proposed to elect the judges in the spring, so as to keep them out of the general political scramble in the fall. Why not elect the same number of regents, one in each circuit, at the same time and in the same manner? The substitute now offered proposed so to do. He hoped it would prevail. We were in a progressive age—in a progressive democratic age. He could well remember the days of federalism—the days of the council of revision, and other aristocratic features of our government, which had long since gone by the board, from this spirit of progression. It illy becomes this Convention, sitting here in the place of the people themselves, to debar them from voting for every officer to be elected under the gov-

ernment direct. He did not distrust the people. He would now appeal to the democratic portion of this Convention to sustain the substitute. He had no fears of the result.

Mr. COMSTOCK—I fully agree with the gentleman. I believe the whigs, on this point, are fully as democratic. I believe that they wish this principle incorporated in the constitution, that there shall be no officer so sacred but that he shall be elected by the people. It is generally understood that all officers shall be so elected; and I hope that decided action will be taken, and that the yeas and nays will be called.

Mr. McCLELLAND moved to amend, so as to make the professors of the University elective by the people.

On the suggestion of Mr. CHURCH, Mr. BAGG modified his substitute so as to read:

"There shall be elected in each judicial circuit, at the time of the election of the judge of said circuit, a regent of the University, whose term of office shall be the same as that of said judge; and the regents then elected shall constitute the board of regents of the University of Michigan."

Mr. BAGG said he was sorry to see the amendment offered to the substitute at all, and much less by the gentleman from Monroe, [Mr. McCLELLAND.] It was not evidently offered in good faith, but to kill the substitute. It was like the embrace of the night-mare, to hug it to death. He trusted there was too much good sense in the Convention to entertain it for a moment. He was well aware that the present circuit judges, to a man, were in favor of the present Circuit Court system. He was also well aware that the regents of the University wished the regents to be elected by the Legislature or the Governor, or by some other power, removed one step from the people. He had been labored with, not only on this subject, but on another connected with the interests of this institution, to wit: to take from the Legislature the power to Legislate at all on the University or its lands, and bestow it upon the regents. But these arguments had no effect upon his mind.

The gentleman had given us his experience as a regent of the University, to prove that the regents were operated upon by no

other influences than honest motives and good intentions. No one doubted this; and although the gentleman had, in addition to his experience as a regent of the University, a much larger experience in legislative and congressional matters, it did not follow that his judgment on this or other subjects was better than those of less experience. At any rate, if he were honest in this amendment, his democracy was running low-wines, and could not be followed by those of better judgment. There was a proper point for this Convention in detail to stop at. He was sure the Convention would vote down the amendment, and let the substitute stand on its merits. "One thing at least he had not looked for from that quarter, and that was a distrust of the people themselves. What would come next, he knew not, but was prepared for almost any thing, from any quarter. He trusted the amendment would not prevail.

Mr. McCLELLAND—I regret exceedingly that the gentleman from Wayne has thought it necessary to offer this substitute. I have ever taken a deep interest in the University, and I can call upon gentlemen on this floor to bear testimony that I have done all in my power to sustain it, and I submit to the Convention whether party has any thing, or should have any thing, to do with it? This is a serious matter, and I am opposed to involving it in politics, at all. We cannot avoid mingling it with politics, even if we elect them in the spring. You may, to a certain extent, but you cannot altogether; for a bargain can be as well made to last from fall until spring, as from spring until fall; and it cannot be avoided; for you must change human nature before you can change the party tactics of the day. The people of the State of Michigan are as competent to elect professors as they are regents. I was a regent, once, and I confess that I am to a great extent ignorant of the duties of the office. I am not at present a competent judge of their precise qualifications. I consider myself a better judge of the qualifications of a professor than I am of a regent; and that the people of this State are more deeply interested in the character of the professors, than they are in that of the regents.

The people are competent to judge of the qualifications that are necessary for a

professor in the University. I can refer to the history of other States to sustain my opinion. One institution in Virginia, which is now under private auspices, was at one time a State University; and it was sustained by one of the greatest names that ever blazed in the history of our country. Thomas Jefferson tasked every power of his mind to sustain it; but with his talent and intellect, and with the full patronage of the State of Virginia, it utterly failed. It was resuscitated under the influence of private persons, probably a corporation, but not a State institution; it has no connection with the State, except perhaps obtaining occasional help in the shape of a gratuity from the State, and it has risen to be one of the best and the most distinguished institutions of the South. They now number three or four hundred students in that University.

Mr. CLARK—I am sorry to see such a proposition come from my worthy friend from Monroe, that the professors should be elected by the people. I am satisfied that our University should not be placed upon the same level with political institutions. We should look to a higher source; select the best men that we can find, so that they may sustain the institution.

The University can only be sustained by the weight of moral influence which you bring to bear upon it; if you sink it down to the political arena, it must inevitably fail. As this is our only institution of the kind, I hope the Convention will use every effort to place it on a proper footing, that we may have the free benefits that were designed to flow from it, and which will certainly be lost if the professors of the University are to scramble into office through the influences brought to bear upon elections.

I am prepared to go as far as the gentleman from Wayne, in the assertion of democratic principles; but I consider the broad arguments of the gentlemen from Wayne and Lenawee as exceedingly questionable. It is not democracy or whiggery that we want in this case. It is or should be apart from all these influences. I hope that it will be left to the Legislature, that they may be enabled to take suitable action and sustain the institution.

Mr. KINGSLEY—From the fact that I live near the University, I shall say but

little on the subject, but be guided by the opinions of others, as the members from various quarters can probably fully represent public sentiment. I am of opinion, however, that it would be the best plan to agree with the report of the committee. There are some objections to the regents being elected, as political action should be excluded, and I think it would give better satisfaction to the people of the State. I feel a deep interest in the University, and I am aware that there has been a feeling of prejudice against it, which I hope will soon pass away. It belongs to the whole State, and I hope the whole State will feel an interest in sustaining it.

Mr. BAGG wished to make a few remarks. The regents want to be independent of the Legislature. They want to manage the financial part. I am sorry that in this age of progression, we should look backward. I am sorry to see the gentleman from St. Clair follow the lead of the gentleman from Monroe. We elect our judges by the people; if the principle is wrong, how can that be defended? Yet, we know that none here wish or think of a change; and yet the judges are of more importance to the people of the State than the regents of the University, the judiciary being the base and foundation of our whole commonwealth.

We are told by our opponents that they want to keep them pure—kept out of the political arena. Well, sir, will that be effected by permitting them to be chosen by the Legislature. Does not the Legislature partake of the nature of those who elected them? Neither will there be a scramble, for the substitute proposes that they shall be elected at the same time and the same number as the judges of the circuits. I hope that every officer appointed by this constitution will be elected by the people.

Mr. DANFORTH—I hope the substitute will not pass, for we ought to remove this from political strife. If we elect them, we shall elect them with the same spirit that we elect our judges and other officers. I came from a country where we have had some experience on this subject—the State of Massachusetts. When William's College was under the care of the State, it had but very few students; I think not more than seven. But left to private enterprise, it now numbers two hundred students.

We should be very cautious how we act in this matter; and I think the amendment of the gentleman from Monroe is preferable, as I believe the professors are more liable to the people than the regents. I am (although a strong party man) in favor of it being left to the Executive, that it may be as much as possible kept aloof from the political action of the people of the State. I hope the gentleman from Lenawee will see that his proposition is wrong.

Mr. COMSTOCK—I deprecate bringing this matter in the political field for the purpose of making it a mere party question, or treated upon grounds purely political. If the election takes place in each judicial circuit, will there not in all probability be a fair representation of all parties in the State? Will one party have the rule in every judicial district? I think not; but that by election the people, as a whole, will be represented. The judges will be elected by the people, and I see no reason why the regents should not be likewise elected. I see no reason why the people should be deprived of this right under this constitution. I wish this left to the people, that there may be a fair representation of the people; that the people may be more interested in the matter.

I hope that this substitute will prevail. I think that every inhabitant will be interested in it, for all feel an interest in the education of their children. Will you refuse to so trust the people—say they are not competent? I hope not. I shall blush to go home and say to my constituents that they were not capable of electing an officer of this kind.

Mr. McCLELLAND then withdrew his amendment.

Mr. STOREY moved the previous question; and the same being demanded, and the main question being ordered to be now put, the substitute proposed by Mr. BAGG for section four of the article, was agreed to—yeas 44, nays 26.

The article was then ordered to a third reading.

RESOLUTIONS.

Mr. TOWN offered the following; which,

On motion of Mr. ARZENO, was indefinitely postponed:

Resolved, That the members and officers of this Convention be required to pay

postage on all mailable matter received by them hereafter.

On motion of Mr. GARDINER,

Resolved, That Mr. MARTIN MAHON be appointed a reporter of this Convention, from and after the 1st instant.

The article entitled "Township Officers and Government" was read a third time, when

Mr. FRALICK moved to indefinitely postpone the same; which was not agreed to—yeas 23, nays 44.

And on the question, shall the article now pass, the yeas and nays were had, with the following result:

YEAS—Messrs. P. R. Adams, Anderson, Axford, Bagg, H. Bartow, J. Bartow, Butterfield, Carr, Chandler, Chapel, Choate, Church, Comstock, Conner, Cornell, Crouse, Daniels, Eaton, Gardiner, Harvey, Hascall, Kingsley, Leach, Lovell, McClelland, Morrison, Mowry, Newberry, Orr, J. D. Pierce, N. Pierce, Robertson, Soule, Storey, Sturgis, Van Valkenburgh, Wait, Walker, Warden, Webster, Whittemore, Williams—42.

NAYS—Messrs. W. Adams, Alvord, Arzeno, Barnard, Beardsley, Beeson, Britain, Ammon Brown, Asahel Brown, Burns, Bush, J. Clark, Crouse, Fralick, Gale, Gibson, Green, Hanscom, Hart, Lee, Mosher, Prevost, Rix Robinson, Skinner, Town, Whipple, President—27.

So the article was passed; and under the rule referred to the committee on arrangement and phraseology.

The article entitled "Education" was read a third time by its title, and the question being shall the article pass?

Mr. CROUSE said—I would inquire how much salt spring land we have, how much remains unsold, and what amount of money is to be appropriated for the support of an agricultural school?

Mr. WALKER—The information was given by the gentleman from St. Joseph, the other day. The Auditor General said there was not the full amount. There is no direct appropriation by this section; it merely permits the legislature to appropriate. It is not at present in existence; but can by them be appropriated.

Mr. CROUSE—If the money is used for other purposes, is it intended to draw the amount from some other fund to replace it?

Mr. WILLIAMS gave the same explanation that he gave the other day, respecting the amount, probable value, &c., of the salt spring lands.

The yeas and nays were then had, and resulted as follows;

YEAS—Messrs. P. R. Adams, W. Adams, Alvord, Arzeno, Axford, Bagg, Barnard, H. Bartow, Beeson, Britain, Ammon Brown, Burns, Butterfield, Carr, Chandler, Chapel, Choate, Church, Comstock, Conner, Cornell, Crouse, Daniels, Eaton, Fralick, Gardiner, Gibson, Hanscom, Hart, Harvey, Hascall, Kingsley, Lovell, McClelland, Morrison, Mosher, Mowry, Orr, J. D. Pierce, N. Pierce, Prevost, Robertson, Rix Robinson, Soule, Storey, Sturgis, Town, Van Valkenburgh, Wait, Walker, Warden, Whittemore, Williams—53.

NAYS—Messrs. Asahel Brown, Bush, J. Clark, Danforth, Gale, Green, Lee, Newberry, Skinner, Webster, Whipple, President—12.

So the article was passed, and under the rule referred to the committee on arrangement and phraseology.

On motion of Mr. McCLELLAND, the committee of the whole were discharged from the consideration of the articles entitled "Judicial Department;" and the one reported by the committee on the judiciary, through Mr. CHURCH, and numbered 28, was taken up for consideration.

Section one having been read,

On motion of Mr. McCLELLAND, the words "inferior local," were stricken therefrom, and "municipal" inserted.

Section two being under consideration,

Mr. BRITAIN moved to strike therefrom, in line five, the word "separate," and all after "constitution," in the same line.

Mr. BEARDSLEY did not understand the object of the amendment.

Mr. BRITAIN—The object is to render the Legislature competent at the end of six years to make what kind of a Supreme Court they choose.

Which was rejected; yeas 30 nays, 34.

Mr. CHURCH—I wish to change my vote. I misapprehended the question, and I may be misrepresented.

Mr. CORNELL was under a similar misapprehension.

By consent of the Convention, the word

"two," in the sixth line, was stricken out, and "three" inserted; also, the word "final" was inserted before the word "decision," in the third line; and all after the word "be," in the ninth line, was stricken out, and the words "eight years" inserted.

On motion of Mr. KINGSLEY, the section was amended by inserting after the word "necessary," in the fourth line, the words "after six years."

Mr. BRITAIN moved to strike out all after the word "constitution," in the fifth line, to and inclusive of the word "State," in the sixth line, and insert in lieu thereof, "to be elected in such manner as the Legislature shall prescribe."

Mr. CHURCH—I am opposed to the proposition for the reason that induced me to offer a substitute for the proposition of the gentleman from Monroe. Although an ardent friend of a separate Supreme Court, yet I am convinced that the other system will prevail, temporarily at least. I therefore desired that the substitute of the gentleman from Monroe, if passed, should be so in the form most acceptable to the friends of the separate court system, and valuable to the people at large. The great trouble has been that the Legislature left the broad path of the constitution: they made and unmade courts, and it led to a deal of trouble. If the change should be made, I should like to have a separate court, of a distinct character. If the Legislature act upon the matter, they should not indulge in all kinds of wild schemes, but should have a plain specific plan to pursue. Leave the Legislature nothing to do but bring into action a court, the form and character of which is fixed. Therefore, I am opposed to the amendment of the gentleman from Berrien. Some reference has been made to this bill. I am afraid that this bill is a kind of bastard; it is the son of no father, to use the language of the law; I do not know who has it in charge. At the request of the committee I reported it, but I am no friend to it. Those who are in favor of this judicial system can probably take care of it during the discussion on its merits, which it must meet in this body. I make this remark because if we have to swallow the dose, I want the thickest kind of sugar coating upon it. I am opposed to giving the Legislature an

opportunity to do as they choose; for if they take up the matter of a separate Supreme Court, it may be full of absurdities. The last subject that I would trust the Legislature with, would be a reform in the judiciary.

Mr. BRITAIN—I do not propose to make an argument; but I cannot help remarking that the cry with some gentlemen, when I was endeavoring to secure the people's rights, was, "oh, leave it to the Legislature."

The Legislature is the same to me all days; not one day to have full power, the next day not to be trusted. I have always treated it with confidence, and I felt that I was entitled to do so from long acquaintance with it. I want to secure to the people such a court as the people want. How do we know that the people will want a separate Supreme Court elected by general ticket? Does the gentleman from Kent know that the people will want it? If they do, will they not obtain it through the Legislature? They may want one plan, or they may want another; we can not tell which they would prefer. It may be refused by this Convention; but that is no evidence that it is not right. I have presented amendments which have been rejected at the time, but which have afterwards become the law of the land. I might instance the exemption law of 1837. If gentlemen are willing that the people may have a separate Supreme Court, they ought to be willing that the people may have it as they wish.

The amendment was not agreed to.

Mr. ROBERTSON moved to strike out the section, (2,) and substitute the following in lieu thereof:

"The Supreme Court shall consist of three judges, two of whom shall form a quorum; and the concurrence of two shall be necessary to every decision. And the Legislature shall have power, after the year 1855, to provide by law for the election of an additional judge of said Supreme Court; and also to provide that the concurrence of three of said judges shall be necessary to every final decision. And the Legislature may also provide that each of the judges of the Supreme Court shall be authorized and required to hold one term of the Circuit Courts in each and every year in any of the counties of the State,

in which more than two terms of such circuit shall be annually held. The final decisions of the judges shall be in writing, and signed by those concurring; and a judge dissenting from a decision, shall give the reason for such dissent in writing under his signature."

Mr. B. said—The proposed amendment will probably bring up a struggle between the friends of the two systems; but it may as well be here as after. After it is ascertained which system is preferred, but little further discussion will be necessary. It will be remembered that the majority was very small for the Circuit Court system, and it can hardly be expected that whatever system prevails, it can do so by a large majority. I feel more confidence in offering this amendment in learning from recent intelligence that the people are wedded to a separate court system. I believe it is almost the unanimous sentiment of the people of Wayne, Macomb and Oakland. Other counties, I believe, through their delegates, have expressed themselves against it. I hope the amendment will prevail.

Mr. VAN VALKENBURGH—I am always happy to define my position. I am always ready to show my hand. Under no circumstances will I dodge any question. I am in favor of an independent Supreme Court, for various reasons. I am sorry that I was not here during the discussion, for I might have received some new light. I hope that the substitute of the gentleman from Macomb will prevail.

Mr. N. PIERCE—I am in favor of the Circuit Court system, but I want the legal gentlemen to examine the bill thoroughly, and see if it is right. The gentleman from Kent says that the bill came in without a father; that it will not have much support. We have waited a long time without the bill being reported. If it is improper, it should be changed. He says that the majority is small; but it has been repeatedly tried, and I am willing to vote for it again.

Mr. McCLELLAND—I have looked at the article since it has been printed, and it contains some provisions which I do not approve, although they can easily be remedied by the Convention. The question has been fully discussed, and not alluding to myself at all, it has been ably argued upon both sides. All the arguments have

been heard by the members, and as I wish them to be all present, I move a call of the House.

The same being ordered, there were absent without leave, Messrs. BARNARD, J. CLARK, CROUSE, LEE, McLEOD and MOSHER.

On motion of Mr. BAGG, the Sergeant-at-arms was dispatched to secure the attendance of Messrs. CLARK, CROUSE, LEE, McLEOD and MOSHER.

Mr. CORNELL—As the business of the Convention is at a stand, while the Sergeant-at-arms is bringing in the absentees, I wish to say a very few words. The objects for which courts were instituted are well known. They are instituted to explain the laws and protect the interests of citizens. The less litigation that arises in a community, the more peace and happiness there will be. The more distinct courts there are, the more litigation there will be, and consequently more difficulty among the community. What effect shall we produce, if we change our system to an independent court? Will there not be more likelihood of litigation—more appeals to an independent body in a distinct court, than there would be if the Supreme Court were composed of the circuit judges?

Mr. CHURCH—What does the gentleman mean, questions of law or of fact?

Mr. CORNELL—I do not know whether the gentleman wants to convince me, or not. I presume that I understand the question. I meant to speak so plain that common folks could understand me. It has been said that there are judicial sympathies. If we acknowledge it, we impeach the integrity of the court. I am willing to admit that they are men of integrity. It has been said that they would decide better by the independent court system. Is it not a fact that the best judges we ever had were trained in the Circuit Court? The best reporters we ever had were also trained under the Circuit Court system. The President, I see, shakes his head. I differ from him. It is according to my experience. If the people want a change, they can effect it. I am not going to inflict a speech upon this Convention. I think that the Circuit Court system will be the best for the people at present. They will not be so apt to appeal; and if they do ap-

peal, the same men can give as just a decision as other men; but I suppose that I might talk for an hour and do no good.

Mr. WALKER—Much may be said in favor of a *nisi prius* system, especially when it is adopted in a well settled, compact population. At the same time if our State was densely populated, there would be an objection at the present time to adopting the system, for this reason: that it has been tried in this State, and condemned. The people have rejected it, and as far as I am acquainted with their sentiments, they have an invincible repugnance to returning back to the old system.

But, waiving that point, if we had here to decide between an independent court system and a *nisi prius* court system, complete in all its parts, we might hesitate; but we have under consideration a system, by what name I do not rightly know how to term it. By referring to the various sections, gentlemen will find that it cannot be named—it is a mixture of incongruities—it is a slander upon the *nisi prius* system, which has merits; this is neither one thing nor the other.

If we had the two systems, circuit court and independent court, fairly before us, I might doubt which to choose; but when a system like this is endeavored to be thrust down our throats, I must vote against it; and any arguments that might be drawn from the workings of the *nisi prius* system, would be inapplicable, as applied to this.

Mr. BUTTERFIELD—I wish the gentleman had given us something besides denunciation. I regret to see him use language of that kind upon this floor. The gentleman was in the minority of those in committee who were in favor of a Circuit Court system. If he has seen fit to change his convictions, he should not use language like this.

The CHAIR said what had passed in committee was out of order here.

Mr. BUTTERFIELD—I did not propose to refer to what passed in committee, but I referred to his first votes.

It was the intention of the framers of this bill to meet the views of a majority of this Convention, so that we might harmonize in our views upon this question. I am not aware that the gentleman from Macomb has assigned any particular objection to it,

so I shall not go into a discussion upon its merits. Every one must see the propriety of the adoption of this section. There is not a multiplicity of officers; it assigns duties to a judge who is known as a judicial officer; provides for the discharge of duties by that officer. It provides that such other judges may be added as may be deemed expedient by the Legislature; provides for the local duties by the local judge, such as may be deemed necessary and convenient for the people.

As I have spoken on the subject, I will further say that it is not without a proper parentage. It has the sanction of that portion of the committee who were in favor of a Circuit Court system. It embraces the features that would have been reported by the chairman of the committee, [Mr. Crary,] if he had not been at the time, unfortunately, sick. So that as far as parentage is concerned, it has the sanction of that portion of the committee.

Mr. BAGG—I shall only mention one point—its having no father. Whether it has one or not, I do not know. I rather think it looks like a mongrel, as if it had a variety of fathers. It looks to me like the hybrid class; and they never can generate. The gentleman from Jackson [Mr. Cornell] says that the less litigation there is, the better; consequently the court that will give us the least law will be the best. So the Circuit Court will be the best, because it gives us less litigation, as there would be fewer appeals than there would be if we had an independent court.

Mr. CORNELL—I said the more distinct the systems, the more litigation there would be.

Mr. BAGG hoped the gentleman would give us his point. He said there was more order in the Circuit Court.

Mr. CORNELL—I said the greater the number of courts—

Mr. BAGG—I believe the gentleman has rather modified his position since I took the floor. You may have order in an independent court, and you can have order in a Circuit Court; but by compelling them to mix together, you destroy that order, and I am therefore opposed to the system. If a man feels aggrieved in a justice's court, he can carry it up to the Supreme Court. That is not denied by the gentleman from Jackson. But if he only

carries it up to the Circuit Court, according to his principle that the circuit judges shall review their decisions as supreme judges, should not the justices help the circuit judges to review the decisions they gave in the justices' court? I think this is a fair inference from his arguments.

Mr. CHAPEL—I ask the indulgence of this Convention for a few moments. I have not had the pleasure of hearing what the distinguished members have had to say upon this subject, which I regret, as I might have had some new light upon the question. I have a different view from a majority of this Convention on this subject; so I think it my duty to explain the reasons why I shall vote against the bill. I look upon this constitution as standing on the edge of a precipice, and advancing to destruction, for the reason that a majority here have decided against an independent Supreme Court, and decided in favor of returning to the old system which was rejected by the people, and gave way to the County Courts, which were instituted in its place.

The County Courts have become unpopular, because they did not keep up the proper influence of a court. It did not bring in influential men to make it become popular. But with regard to the present system proposed, it is my belief, and I have taken some pains to ascertain the fact, that nine-tenths of the people of Oakland and Macomb are in favor of an independent Supreme Court. I called upon H. L. Stevens, of Pontiac. He told me that although he was in favor of a Circuit Court, yet he had no doubt that nine-tenths of the people of Oakland were opposed to it, and in favor of an independent Supreme Court.

I am in favor not only of striking out this section, but the whole bill. There are other sections that are obnoxious. I perceive that it only allows five judges to preside over five districts, to do all the business of the districts, and likewise to form the Supreme Court. Every body must see that it is impossible that these five judges can discharge all the duties, and sustain the proper dignity of a court. Five district judges would be occupied all the time in attending to the district duties; while, by the present system, they will have to leave their district duties to go and attend upon the Supreme Court bench.

They will have to bundle up their papers, and leave the business of the District Court in confusion. It has been done, and it has led to great complaint of the system.

The 16th section provides that the Legislature may institute some thirty judges, independent of the circuit judges, who are to occupy a sort of middle ground. I am afraid that they would not keep up the dignity that should attend a court. We demand that the supreme bench should be placed upon higher ground; we say that the people have repudiated the Circuit Court system, and we assert that an independent court will better satisfy the mind of the people.

Mr. McCLELLAND—We have had a full discussion of the matter. We have now had a speech from the gentleman from Macomb, [Mr. CHAPEL.] I am willing to rest the question upon its merits.

The absentees appearing,

On motion of Mr. HANSCOM, all further proceedings under the call were dispensed with.

The motion to strike out section two, and substitute as proposed by Mr. ROBERTSON, was lost—yeas 33, nays 36.

Section four having been read,

On motion of Mr. CHURCH, it was amended by striking out "said circuit judges," and inserting the word "law."

Section five being under consideration,

On motion of Mr. ROBERTSON, it was amended by striking out, in the first line, the words "shall have power," and inserting in lieu thereof, "it shall be the duty of."

Mr. WHITTEMORE moved further to amend the same by adding thereto, as follows:

"And testimony in cases in equity shall be taken in like manner as in cases at law; and the office of master in chancery is hereby prohibited."

Mr. WHIPPLE—The testimony in equity cases is exceedingly voluminous. Let us take a case in equity as in law. The parties that appear in cases of this kind are numerous; sometimes above the number of fifty. When they appear before the court, their testimony will have to be taken down in writing, because upon an appeal to the Supreme Court it must be heard upon its merits. The expense of taking down testimony will be great, and

frequently parties will find it much less if it is taken down in the immediate vicinity of the place where they reside. I would suggest that the power should be left discretionary with the Legislature.

Mr. WHITTEMORE—I do not discover any difficulty. I do not see that the expense will be more in one case than the other. By the course proposed, parties will be brought into court.

Mr. WHIPPLE—I move to add, "by consent of parties."

Mr. WHITE—I think that one case can as well be tried in an open court as another. There is certainly a benefit in having the witnesses brought before the court; which cannot be done if the proceedings are taken before a master in chancery. I think that the witnesses would be fewer, and by that means it would save expense. It would undoubtedly inflict more labor upon the court, as the testimony will have to be all taken down in writing; but I do not think that a sufficient objection, as I consider it would tend to throw a safeguard around the citizen.

Mr. McCLELLAND—I agree with the gentleman from Oakland, for I see no reason why it should not be placed upon the same ground as common law proceedings. I would submit to the gentleman from Berrien, in a question in chancery, involving fraud, (and many cases do involve fraud,) whether the weight of the testimony would not in many cases depend upon the character and appearance of the witness. How can you arrive at this knowledge by his testimony reduced to writing? It is impossible, for the testimony of the most worthless, reduced to writing, has the same force as the testimony of the most upright and honest man that you can find; while taken in open court, the testimony of one man would probably not be entertained one moment, when conflicting with that of another. I am in favor of the latter clause, for I consider that a great deal of business which should properly be done by a sheriff is performed by a master in chancery. In many counties the emoluments from the office of sheriff are so small that men of sufficient qualifications will not take the office.

I have another objection. I have known masters in chancery taken from one end of the State to the other to receive testimony.

I have known in my own county persons bring their masters in chancery with them, although they lived at a considerable distance. Why is this done? The master in chancery does give a character to the testimony which it might not otherwise possess at all; and if the master is disposed to give a particular direction to the testimony of any witness, he can do so without any fear of detection. I see no difficulty in this amendment. In certain cases the parties can take the testimony out of court, and have testimony taken before a magistrate, or some competent person. I am therefore in favor of the amendment.

Mr. WHIPPLE—I fully agree with the gentleman from Monroe, that we can, by taking testimony in open court, prevent any collusion with the master in chancery, and have a better knowledge of the standing and credibility of the witnesses, and I think that, as a general rule, testimony in equity had better be taken in open court. But when both parties are willing to go before a justice of the peace, I think that this Convention has no right to control their action.

I do not care whether the office of master in chancery is in existence or not. If both parties assent to taking the testimony privately, they should be allowed so to do. I wish to make justice as cheap as possible; and there are many cases of revolting characters, which if taken in an open court will affect public morals. It had better be taken in the private rooms of a master in chancery.

Mr. ROBERTSON—Mr. President, I hope the amendment offered by the gentleman from Oakland [Mr. WHITTEMORE] will not prevail. While I agree with him and the gentleman from Monroe, [Mr. McCLELLAND,] that in many, perhaps most, cases the testimony in equity causes might very properly be taken in open court, yet I agree with the Chief Justice that it would be often highly improper, and in other cases entirely inexpedient. I would much prefer that the whole matter should be left to the wisdom of the Legislature. Even now, by statute, a party in a chancery suit has a right to claim an examination in open court, and this is sometimes done in cases where there is little testimony to be taken. But in how few instances do the parties claim this privilege, even when it is atten-

ded with less expense to them? I should hope the matter could be left as it is.

One of the benefits derived from the system of legal reform proposed by Denton and Allen, at the time that the present beautiful and harmonious fabric of County Courts was erected, is this reform now standing upon your statute books. There is no danger that the Legislature will recede from it. But are gentlemen prepared to say that all testimony in equity causes should be taken in open court? There are some suits brought on the chancery side of our Circuit Courts, as has been mentioned by the Chief Justice, in which it is exceedingly improper that the evidence should be given before a multitude of spectators. I allude to applications for divorce on account of adultery. True, the gentleman from Monroe says that at common law we have trials that introduce the same sort of evidence, and the same class of facts. I admit it. But I hold it to be wise to avoid all unnecessary indecencies in our judicial proceedings, which pander to a corrupt and vitiated taste. If we cannot avoid this in *crim. con.* cases, at common law, and criminal trials at the bar, let us, at least, keep clear of it as much as possible. And, sir, I do not speak unadvisedly when I say such examinations pander to a vitiated taste, and have an influence deleterious to public morals. I appeal to every man here upon this floor, who has attended courts, to bear me out in saying that the scenes witnessed in our courts during the trial of prosecutions for rape, furnish ample testimony in support of this position. The court rooms on such occasions are crowded to overflowing with eager listeners to the disgusting details.

But this is not all, sir. The testimony in chancery is sometimes so voluminous that if you preserve any of the features of equity practice, you impose an intolerable burden upon your judges, or some other officer connected with the court, and take up time uselessly which might better be disposed of in hearing causes. In the vast majority of cases, which consist of a dry detail of facts, the evidence might be taken before a Master, or some other officer designated, with entire safety to the parties, and much more to their satisfaction. But this is not all: if you leave it to the Legislature, they will give suitors an option, so

that in those cases involving fraud, so frequently only to be reached in chancery, when it may be important that a witness should be examined in open court, the suitor would so elect. I agree entirely with the gentleman from Monroe, and my friend from Oakland, that in such investigations it is of infinite importance that not only the words, but the manner and looks of the witness, should be scanned. That then the purposes of justice require it—and I would be the last to place any impediment in the way of him who seeks in this way to attain a fair trial upon the merits—still, even then, unless the distinction between law and equity practice is entirely abolished, you do not provide a full remedy. For, on an appeal to the court of review, the pleadings and depositions only go up, and the suspicions and damning appearances in the witness himself, are there entirely lost. The reviewing court would only see the depositions, and might, and often would, come to a very different conclusion from the judge who tried the same at the circuit. In fact, we cannot attain complete justice in all cases by any mere human means. I have heard nothing yet which would induce me to vote to place this provision in the constitution.

Mr. J. D. PIERCE—Would not the proposed system be less expensive?

Mr. ROBERTSON—Well, sir, I have not given that point much consideration, but I should think, on a hasty view, that if all testimony in equity cases were to be taken in open court, it would be very much more expensive to the people. Perhaps it might be cheaper for the suitors. I said before, the testimony on the equity side was sometimes very voluminous; if that was taken, as proposed, in the same manner as at common law, while a cause was going on, sometimes for a whole week, jurors, witnesses, parties, and all the officers of the court, would be kept waiting at a great expense. And the testimony, after all, might as well be taken before some other person during vacation, and submitted to the court, who could then in his room examine it and make up his decree.

It would evidently cost more to the people at large; and I will at all times protect them by my vote. I would much rather the parties themselves would pay the ex-

penses, although in some cases it may be very hard upon them.

On motion, the Convention adjourned.

Afternoon Session.

The Convention was called to order by the PRESIDENT, and a quorum being present, resumed the consideration of the article entitled "Judicial Department.

The question being upon the amendment of Mr. WHITTEMORE to section five, the same was agreed to—yeas 38, nays 25.

Mr. GALE moved to amend the same section by inserting after "Circuit Courts," "but in no case shall they deprive any citizen of the privilege of practising in said courts."

Upon this the yeas and nays were ordered.

Mr. GALE—I wish to make a remark or two; I do not mean to make a speech. This profession of law is the only class that have the privilege of making their own rules—of saying who shall or who shall not practice in their courts. The practice of medicine, that is fully as important, is not subject to this restriction; the practice of divinity is not so restricted. Any man may give either medicine or gospel and collect his dues. I have no objection to this; I think that each should stand upon his own merits. I want the lawyers to stand upon the same platform with the priests and the doctors. A man's property is no better than his life or his soul. We allow a man to tamper with both soul and body, but not with property. I therefore hope the amendment will prevail.

And the amendment was agreed to—yeas 47, nays 20.

Mr. WHITTEMORE moved further to amend by adding to the section as follows:

"And the Legislature shall, as far as practicable, abolish all distinction between law and equity proceedings."

Mr. ROBERTSON moved to strike out "as far as practicable;" which was lost—yeas 21, nays 46.

Mr. WHITTEMORE's amendment was then agreed to.

Sec. 6 having been read,

Mr. CHURCH moved to amend the same by striking out the words "reside after election," and insert the words "be

elected by the qualified electors thereof."

And the same prevailed.

Mr. CHURCH moved to amend section 7 by striking out the words "of this State," in line 3 of said section, and by inserting the words "of said circuit;" which was agreed to.

Section 8 being under consideration,

Mr. ROBERTSON moved to strike out, in the second line, the words "and not prohibited by law;" but the amendment was lost.

Mr. ROBERTSON moved to amend section 9 by striking out of lines 2 and 3 the word "and shall hold no other office of trust or profit during the term for which they are elected," and insert, "and shall be ineligible to any other than a judicial office during the term for which they are elected, and for one year thereafter."

Mr. R. said—I make this motion with the assurance that I have the people of the State of Michigan agreeing with my views. I am positive with regard to the fact, because they have voted with regard to this very measure. An amendment to the constitution was proposed, disqualifying judicial officers from other offices of trust and profit, during the term for which they were elected and for one year thereafter, which was adopted by a large majority. There has been a difficulty in knowing what was the sentiment and wish of the people. There can be no doubt about this, because it is but recently that the expression of the people was heard upon this subject.

Mr. VAN VALKENBURGH—I move to amend the amendment by striking out "and for one year thereafter." However the people of the State of Michigan may have voted with reference this subject, I think that the sober, second thought will convince them of the propriety of having it withdrawn.

Mr. ROBERTSON—The gentleman who represents the hard-fisted yeomanry, must be conscious that an immense majority of the people voted in favor of the measure which he wishes to strike out. Has there been any change of public sentiment? We have no evidence of that change. Are we to retrograde? I call upon him to give us good reasons why we should do so. It is but lately that the people have made the change. The people wish the judicial tribunal to be kept pure;

and it has been suggested that the Supreme Judges regarded their office as a stepping stone to that of Governor; therefore they wished that it should be stopped; and yet, when it is known to be in accordance with their wishes, the gentleman from Oakland says they shall not have it.

Mr. VAN VALKENBURGH—I do not know that I can give reasons to satisfy the mind of the gentleman from Macomb, but I think I can satisfy any unprejudiced mind that that clause should be stricken out. I would inquire first, if any thing was gained in the way of reform by inserting that clause? I think not; and I therefore see no reason why the Supreme Judges should have this mark set upon them; that they should be deprived of the privilege of being elected to any office for one year after their judicial term has expired. I think that if it is confined to the term for which they are elected, it will be quite sufficient.

With regard to the argument of the gentleman from Macomb, respecting the voice of the people of Michigan, they were obliged to vote for the whole; in order to gain the first, they were obliged to vote for the last. Had it been presented separately, the overwhelming majority might not have been found. These are the reasons that operate upon my mind. I am not aware that they have made the office a stepping stone to other offices, and I wish the clause stricken out.

Mr. BAGG—Had the gentleman been in the State of Michigan as long as some others, he would not have made the speech that he has. The people have got the impression that the Circuit and the Supreme Judges have been the means of working a great deal of the political machinery of the State. We have endeavored to keep them apart from politics as much as possible. We elect them in the spring solely upon that account.

I have closely watched the workings of the judges of the land, and I am satisfied that they have considerable influence with the choice of governors and senators of the United States. I think it is right that they should be disqualified for one year thereafter; they are but men; they have our passions and our infirmities. They are likewise ambitious, and their hope is to

rise to the highest round of the political ladder.

Mr. VAN VALKENBURGH's amendment was then lost—yeas 28, nays 37.

The amendment offered by Mr. ROBERTSON was then agreed to.

Mr. CHURCH moved to amend section ten by inserting after the word "decision," in first line, as follows:

"The decisions made by the Supreme Court shall be in writing, and signed by the judges concurring therein; and any judge dissenting therefrom shall give the reasons of such dissent in writing under his signature; and said opinion shall be filed in the office of the clerk of said Supreme Court."

And the same was agreed to.

Mr. BAGG moved to amend section 11, by inserting after "purposes," in the second line, "and in counties containing 20,000 inhabitants, a Circuit Court shall be held four times in each year."

Mr. J. CLARK moved to strike out "20,000," and insert in its stead "10,000."

Mr. McCLELLAND moved to strike out "20,000," and insert "15,000."

Mr. J. CLARK—The gentleman cannot be acquainted with the judicial business done in St. Clair county. There are but few counties in which there is so much business required to be done, and yet the population will probably not reach 10,000. I was in favor of making it 9,000 so as to reach our county, as it will be impossible for one circuit judge to perform the business with four sessions per year. It is a lumber country, full of litigation; and except something like justice is done us, I shall feel it my duty to take no further part in the proceedings of this Convention.

Mr. McCLELLAND—I wonder that gentlemen cannot attend to the section. We are disposed to think we have all the wisdom of the world in this Convention. The Legislature can increase the number of the courts, and I would rather leave it to the Legislature. They have the power to compel the judges to hold circuits in any county as often as business requires them to be held; and I consider it should be left to them; not put in the Constitution. Anything except dollars and public lands, I am willing to leave to the Legislature. I will, however, withdraw my amendment.

Mr. CHURCH—If the gentleman from

Monroe withdraws his motion, the question is upon the amendment to the amendment; and I am in favor of the proposition. Each bill contains such a provision as this, except the bill of the gentleman from Oakland, which provides that not less than three terms of the court shall be held, when the population is fifteen thousand. I wish to have this fixed in the constitution, so that there can be no doubt about it.

I hope that the circuit judges will not be removed from the circuit to attend to the protracted session of the Supreme Court. If that is decided upon, the number of the circuit judges must be increased. We wish to avoid delays; we wish to take the questions as they rise. The best time to try a law suit is as soon as possible. Delays are injurious in every point of view. Parties are driven to a compromise inconsistent with their rights, when there is wealth on the one hand and poverty on the other; and the people will only be satisfied with a system that gives them frequent sessions of the Circuit Court. There are no places in which the judges should go less than twice a year; and where the population reaches 10,000, they should be compelled to hold four terms per year.

Mr. McCLELLAND—My friend from Kent must recollect that he has been opposed to it throughout. We do not expect him to support it.

Mr. S. CLARK—Experience has shown that it is impossible to manage the judicial business of our country with the Circuit Court system. One week is generally lost preparing to do business. Witnesses come 100 miles, and at a great expense; while frequently not more than one case has been tried during the whole term, in consequence of the protracted suits that grow out of the lumbering business of the county.

Mr. McCLELLAND—The county of St. Clair is an exception to the general rule. The county of Macomb has a population larger than St. Clair, and the litigation is much less in the former county. The Legislature might provide for an additional number of terms for that county.

Mr. BAGG—Some gentlemen seem to play upon a board painted "black" and "white." Sometimes they cry "black," and some-

times "white." When they want a thing themselves they must have it fixed in the constitution. When they do not, they cry, "leave it to the Legislature." We want it settled. We do not want it to be left to the alterations and decisions of the Legislature.

Mr. BRITAIN—The people do not care so much whether the business is managed by a Circuit Court or a County Court, but they ask that the business shall be done expeditiously. I hope that this Convention will secure to them the benefit of speedy justice without one great objection; that is the expense that has heretofore attended it. In my county the county judge gets \$600 per year. If we make eight districts we shall still have to put six of the smaller counties in one district. If we make six judges, a great saving will be effected, although the duties of the circuit judge will be arduous.

The State should be so districted that justice should be extended to every man's door, and then it will be cheaper than the County Court system. By so districting the State that each judge may employ his whole time in his business, the ends of justice will be answered for half the money, if you have even to elect ten judges; but I think that eight can do the business. I was glad to see the decision of the delegate from St. Clair. The gentleman from Monroe says the Legislature will do what is right. How has it been before; and what assurance have we that they will do so hereafter? We have two means of judging: by what has taken place; secondly, the condition of things.

The Legislature assembles, and the gentleman from St. Clair prays for an increase of the circuit terms. What does he find? Do the judges who have been elected want their business increased? Will they be anxious to hold six terms, when they may consider that the county can get along with two? They will not; they will want to get along with as few as possible. The Legislature will enquire of the judges; and who knows better than the judges, or has more influence with the Legislature? They may make the Legislature believe that it is all folly to make an increase of terms; that the business will soon be closed up.

Business men tell me that it is as necessary to close up the business as promptly

and as cheaply in the new counties as the old counties; and I am assured that the county I represent will not be satisfied with less than four terms every year. My colleague wanted but one term in the small counties. That is not the wish of his constituents. I never heard one expression of the kind from a western man. I hope that business will be done promptly, and that every county with 10,000 inhabitants will have four terms of the court every year; that the Legislature, out of deference to the judges, may not withhold justice from the counties.

Mr. CHURCH—I am a friend to the separate court system, but this is the wish of a majority of the Convention. I have, however, supported the amendment in good faith, in the endeavor to make this as acceptable as I can to my constituents; and if the gentleman from Monroe supposes that I am endeavoring to destroy his system, or am actuated by a feeling of hostility to it, he is mistaken.

Mr. McCLELLAND—Not at all.

Mr. CHURCH—For this would be rather expensive to set right. The remarks of the gentleman from Berrien [Mr. BRITAIN] are correct: it is not so much matter whether we call it Circuit Court or County Court, but we want a court four times a year; but few would say they wanted it twice a year.

Mr. McCLELLAND—I did not believe that the gentleman from Kent, [Mr. CHURCH,] by his speeches and votes, was actuated by a feeling of hostility to the bill; but I did regret to hear him give a name to the bill that was obnoxious to the friends of the measure.

Mr. CHURCH—I did not, however, mean to destroy the bill.

Mr. J. D. PIERCE—Some counties need two terms, some four terms, some may need more; let the Legislature determine the exigencies of each case.

Mr. J. CLARK—If the gentleman will except the county of St. Clair—

Mr. J. D. PIERCE—They may keep open court all the year, if they choose, in St. Clair.

Mr. J. CLARK—They will need it. What chance, I would ask, would a whig have of receiving attention at the hands of a democratic body, or what would a democrat receive at the hands of a whig? Yet

that will be our position. We shall, by the single district system, be whig beyond redemption. We cannot expect henceforth to send a democrat to the legislative body; and while we have a voice upon this floor, we beg of you to secure to us our rights; place them so that they cannot be abused, by placing the safeguards in the constitution itself. Do I ask too much? I appeal to every legal gentleman here. It is well known to them that the legal business of St. Clair far surpasses that of the counties of Macomb, Lapeer, and others of the same or more population than St. Clair. We do not want to be left to the care of the Legislature. We do not want this interminable delay; but we do want and we do insist that this Convention will secure to us our rights.

Mr. WALKER—I hope the amendment will be made; for the expense of keeping witnesses in attendance on the court, again compelling their attendance if the cases are not disposed of, will in my opinion be more than enough to pay the expenses of the court, if frequent terms of the court were held. I wish to have this placed in the constitution, for the Legislature will not be able to grant increased numbers of terms with the proposed judicial force, if four terms of the court are required to be held in each county when the population reaches 10,000; and I should like to see inserted a provision that the number of judges may be increased when required by the business of the counties; for it has ever been a complaint against the Circuit Court system, that there were not frequent terms enough to carry on the proper business of the counties.

When a case has to wait, some of the witnesses may be wanting when it is called. It is frequently productive of hardships; and I should prefer, to the delay that has been experienced, to appoint even twelve judges for the State.

The amendment to the amendment prevailed; yeas 47, nays 15.

Mr. BAGG'S amendment was then agreed to.

Section 16 being under consideration, Mr. McCLELLAND moved to strike it out and substitute the following:

"Sec 16. The Legislature may provide by law for the election of one or more persons in each organized county, who may

be vested with such judicial power as the Legislature may prescribe, not exceeding those of a judge of the Circuit Court at chambers."

Mr. McC. said it was the same as contained in article 27, section 19. We considered it proper that one such officer, at least, was absolutely necessary in each county, to save travelling an unnecessary distance to have the judicial business performed, that could otherwise only be performed by a judge.

A division of the question was had, and the motion to strike out the section was first put and carried.

On motion of Mr. BAGG, the proposition of Mr. McCLELLAND was amended by adding thereto, "in counties having a population of less than ten thousand inhabitants, by the last preceding enumeration provided for in this constitution, these powers may be devolved upon the judge of probate."

The substitute for section 16, as amended, was then adopted.

Mr. J. D. PIERCE moved to amend section 17 by striking out "four," in the 1st line, and inserting "two."

Mr. CHURCH—The question has been presented before for the consideration of the Convention, and it has been invariably decided that four justices should be retained. I have no strong feeling on this subject, but as the justices will have a limited criminal jurisdiction, I think that it is convenient to have four justices in a town. If we elect but two justices, and one is sick and the other is absent, justice will be brought to a stand still; and while there are four elected, the business is chiefly done by one. It is a great convenience to the inhabitants, and it can be no detriment if the usual number are required to be elected.

Mr. J. D. PIERCE said that the townships might elect four if they chose; it would be the duty of the town to elect two, and more if it was required.

Mr. SKINNER offered the following as a substitute for the section:

"There shall be two justices of the peace in each organized township. They shall be elected by the qualified electors of the township, and shall hold their offices for four years, and until their successors are elected and qualified. They shall have

such criminal and civil jurisdiction, and perform such duties as may be prescribed by law. At the first election in any township, they shall be classified by law in such manner that one justice shall be elected biennially in each township thereafter. The Legislature may increase the number of justices in cities and in townships having over ——— inhabitants."

Mr. J. D. PIERCE withdrew his amendment.

Mr. EATON—I am opposed to it. This Convention have decided this matter again and again.

Mr. J. D. PIERCE—I would ask the delegate from Wayne if this is not a different proposition from those that were decided upon.

Mr. EATON—I cannot see the difference; and I propose to amend it so as to correspond with an article that we have already passed. This Convention has held different language in the article entitled "Township Officers." I cannot see the propriety of this amendment, when a different construction of what was meant must be inferred from the language used in other articles.

Mr. SKINNER—It does not clash.

Mr. BBITAIN—I think it is the best plan to elect four justices of the peace. Some who are elected do not expect to do much business; but some matters that they can attend to as well as others, for instance the acknowledgment of deeds, are a convenience to the inhabitants. I have seen a justice in the country a great convenience when the village justice was sick, while the election of four costs no more. I therefore hope the number will not be reduced.

On motion of Mr. EATON, the section was amended by inserting between "be" and "from," in the first line, the words "not exceeding."

The question recurring on the substitute offered by Mr. SKINNER, it was rejected.

On motion of Mr. McCLELLAND, the words "and probate" were stricken out of the first line of section 19, and the words "and for the election of judges of probate courts, on the first Monday of April, 1853," were inserted after "1851," in the second line.

On motion of Mr. McCLELLAND, section 19 was further amended by striking

therefrom, in line 1, the words "judges of the supreme court."

On motion of Mr. BRITAIN, all after "and," in the second line, to and inclusive of the word "court," in the third line, was stricken out.

On motion of Mr. WALKER, the words "an election shall be held" were inserted after "thereafter," in the third line.

Mr. GALE moved to amend the section by striking out of line 4, the word "fourth," and inserting in its stead, "second;" but the amendment was not agreed to.

The article having been gone through with by sections, and being open for general amendment,

Mr. J. CLARK offered the following to stand as section 21:

"Any male citizen of the age of twenty-one years, of good moral character, and who possesses the requisite qualifications of learning and ability, shall be entitled to admission to practice in all the courts of this State."

Mr. ROBERTSON moved to strike out "male citizen," and insert "person."

Which was accepted by Mr. CLARK.

The proposition as modified was then rejected.

Mr. WILLIAMS moved the following as an additional section to the article:

"The Legislature shall have power to establish courts of conciliation, with powers and duties prescribed by law."

And the same was agreed to, by yeas and nays as follows:

YEAS—Messrs. W. Adams, Alvord, Anderson, Arzeno, Bagg, Barnard, H. Bartow, Beardsley, Beeson, Britain, Ammon Brown, Asahel Brown, Burns, Bush, Butterfield, Chandler, Chapel, Choate, Church, J. Clark, Comstock, Conner, Cornell, Crouse, Daniels, Eaton, Fralick, Gale, Gardiner, Gibson, Green, Hanscom, Hart, Harvey, Hascall, Kingsley, Leach, Lee, Lovell, McClelland, Morrison, J. D. Pierce, N. Pierce, Prevost, Robertson, Rix Robinson, Soule, Storey, Sturgis, Town, Wait, Walker, Warden, Webster, Whipple, Whittemore, Williams, President—58.

NAYS—Messrs. P. R. Adams, Danforth, Mowry, Newberry, Van Valkenburgh—5.

Mr. CHURCH offered the following substitute for section 20:

"Whenever a judge shall remove beyond the limits of the circuit for which

he was elected, and whenever a justice of the peace shall remove from the township in which he was elected, or who, by a change in the boundaries of said township, shall be placed without the same, they shall be deemed to have vacated their respective offices."

Mr. ALVORD moved to adjourn; but the Convention refused to adjourn.

The substitute proposed by Mr. CHURCH was agreed to.

On motion of Mr. McCLELLAND, the vote was reconsidered by which an amendment was made to section 19, fixing the time for the election of judges of probate in April, 1853.

The amendment was then withdrawn, and the following was inserted in its stead:

"And the election of judges of probate, on the Tuesday succeeding the first Monday of November, 1852."

On motion of Mr. GALE, the vote adopting the amendment proposed by him to section five, was reconsidered.

The amendment was then withdrawn, and

Mr. GALE offered the following as an additional section to the article:

"Every person of the age of twenty-one years, of good moral character, shall have the right to practice in any court in this State."

And the same was adopted.

On motion of Mr. RIX ROBINSON, section five of the article was amended as follows:

Insert in second line, after the words "Circuit Courts," "and simplify the same so far as practicable."

On motion of Mr. J. CLARK, the Convention then adjourned.

THURSDAY, (51st day,) August 8.

The Convention was called to order by the PRESIDENT.

Prayer by the Rev. Mr. TOOKER.

PETITIONS.

By Mr. CHURCH: of George Coggeshall and 37 others, citizens of Kent county, praying for the insertion in the constitution of a provision directing the Legislature to procure a cession from the United States of the unsold public lands within

the State, &c., &c.; which was laid upon the table.

Also, of Edward C. Sergeant and 174 others, citizens of Kent county, praying for the establishment of an independent Supreme Court, &c.; which was laid upon the table.

REPORTS.

Mr. ROBERTS, from the committee on the government and judicial policy of the upper peninsula, submitted

ARTICLE —.

Of Upper Peninsula of Michigan.

Sec. 1. That all that portion of the public domain within the territorial limits of the State of Michigan, including the boundaries of the islands of lakes Superior, Huron and Michigan, and in Green Bay, the Straits of Mackinac and the river Ste Marie, known as the counties of Mackinac, Chippewa, Delta, Marquette, Schoolcraft, Houghton and Ontonagon, and the islands thereunto attached, shall constitute a separate judicial district, and be entitled to one circuit judge, who shall perform the same duties, and possess the same powers of other circuit court judges of the State; and to one district attorney, who shall perform the duties of prosecuting attorney throughout the entire district, and who shall be elected at the same time, and hold his office for a like period.

Sec. 2. That the boundaries defined in the preceding section shall constitute a senatorial district, and be entitled at all times to at least one Senator in the Senate of the State.

Sec. 3. The county of Mackinac, with the territory thereto attached, shall be entitled to one Representative to the State Legislature; the county of Chippewa and the territory thereto attached, one Representative; the county of Delta with the Beaver and other islands in the Straits of Mackinac, one Representative; the counties of Marquette and Schoolcraft and the territory thereto attached, one Representative; the county of Houghton and the territory thereto attached, one Representative; and the county of Ontonagon with the territory attached thereto, one Representative.

Sec. 4. The Legislature shall provide by law for adequate compensation for the district attorney, and for detention and de-

lays of such Senator and Representatives in the performance of their duties.

Sec. 5. The elections for all district or county officers, State Senator or Representatives, within the boundaries defined in this article, shall take place on the last Tuesday of September, in the respective years in which they may be required. The county canvass shall be had on the first Tuesday in October thereafter, and the district canvass on the last Tuesday of said October.

Sec. 6. The State Treasurer shall refund and pay over unto the treasurer of the county of Houghton, ————— of all moneys collected in the counties of Houghton, Schoolcraft, Marquette and Ontonagon, in pursuance and by virtue of any act of incorporation creating any mining company in any and each of said counties.

Sec. 7. The treasurers of the counties of Houghton, Schoolcraft, Marquette and Ontonagon, on the receipt of the said ————— per cent, shall pay the same over to the several township treasurers, within which any of the said mining companies are at work; and which said moneys when so paid over, shall be used for county, township and highway purposes, and in pursuance of the revised statutes of 1846, regulating the expenditure of the same.

Sec. 8. The Auditor General of the State shall collect from and of the said mining companies now incorporated, or to be hereafter incorporated, yearly, the one per cent; which said tax, when so collected, shall be in full and in lieu of all taxes to be paid to the State, and ————— of the same shall within ninety days thereafter, be paid over to the treasurers of the counties herein named, for the purposes aforesaid.

Sec. 9. The charters of the several mining companies may be modified by the Legislature, in regard to the term limited for subscribing to stock, and in relation to the quantity of land which a company shall hold; but the capital shall not be increased, nor the time for the existence of charters extended.

Which was read the first and second time by its title, referred to the committee of the whole, and ordered printed.

The article was accompanied by a written report, which was laid on the table and ordered printed.

The Convention having reached the or-

der of unfinished business, took up the article entitled "Judicial Department."

Mr. SKINNER proposed to amend section 1 as follows:

Insert in the first line, after the words "probate court," the following: "As many district justice courts in each organized county as the supervisors thereof shall, in pursuance to law, establish judicial districts therein, not exceeding the number of representative districts."

Mr. SKINNER—Mr. President, I have given my support to the judiciary system in the article before us, because I thought it the cheapest, and, on the whole, the best. But, in my opinion, sir, neither this system, nor the other—I mean what gentlemen call the "independent Supreme Court system"—without some additions and modifications, will meet the wants and wishes of the people. It is true, as gentlemen have said, that judiciary reform is called for and expected; but these systems, in their present shape, do not, in my opinion, furnish the reforms demanded. What, then, do the people want? I will say in the general they want something practical; something adapted to their circumstances; something by which the disputes and difficulties arising among them can be cheaply and speedily settled. Give them this, and they will be satisfied; but give them a system that does not accomplish these ends, and they will not be satisfied, however beautiful in theory, or splendid in operation, it may be.

If the system now before us be adopted, without addition or alteration, we shall be thrown back about where we were when the present County Court system commenced; and I see nothing to prevent a recurrence of the evils then suffered, to prevent which our County Courts were established. What, then, were the crying evils complained of? Delay, expense. Our Circuit Courts could not then do the business that came before them in due season. It accumulated on their hands. Suitors, discouraged by delay, and disheartened by expense, were frequently induced either to abandon their suits, or to settle them upon unjust and unequal terms, rather than wait the tardy actions of the court for a trial. What will prevent a recurrence of these evils? We shall have more judges, it is true; but shall we not

have more business, also, for them to do? Gentlemen should bear in mind that all the chancery business is now to be done by the Circuit Courts, and that we are going to compel them to take all the testimony in open court, as in trials at law. None of this immense chancery labor was done by our old Circuit Courts, and yet they were overrun with business. How, then, will they now, with two or three additional judges only, be enabled to clear their dockets? Increase your judges, say gentlemen, till they can do the business. Yes, you may increase them till they are as numerous as justices of the peace; but will you not then have an expensive system? Each of your judges must have a salary of twelve or fifteen hundred dollars; and, besides, will you not, by this means, have an unwieldy Supreme Court? True, the business *can* be done by this system, if you increase the number of your judges sufficiently; but is this the best mode of doing it? Cannot a portion of it, and a pretty large portion, be done much quicker and cheaper, and just as well, by some inferior tribunal, if one is provided? And if it can, is it not our duty to provide one?

Is it necessary or expedient to throw all the business above the present jurisdiction of justices of the peace, in the first instance, into the Circuit Courts? I do not believe it is. Why compel a suitor, who wishes to collect a note or account of two or three hundred dollars, living perhaps in a remote part of the county, to go to the county seat to do it? Why make him wait three, six, nine or twelve months, and perhaps more, before he can get judgment? Why make him so much travel and expense—in going to the county seat, taking and keeping his witnesses there day after day, and frequently term after term—when all this could be done at home just as well, nine times in ten, in one-fourth of the time, and for one-tenth of the expense? Here, sir, is the judiciary reform which I think the people want, and which I should be glad to let them have.

I know the court contemplated by my amendment will not suit a certain class. It looks very small to them. It is almost below even their contempt. They, of course, would not preside in, or practice before, a tribunal so humble; but it would, nevertheless, in my opinion, suit the people gen-

erally, and it is for them, as I suppose, that we are making a constitution.

It will not be proper in the constitution to go into detail; but if the Convention will allow me, I will explain what I mean by what is called in my amendment a District Justice Court, and what kind of a court I would have it. Well, sir, I would have the supervisors of each organized county authorized by law to establish as many judicial districts therein as the wants and convenience of the people, in their opinion, require, not exceeding the number of representative districts; in each of which I would have a district justice, elected for a term of five years, who shall be *ex officio* a justice of the peace, and also have exclusive jurisdiction above a justice to the amount of five hundred dollars, and concurrent jurisdiction with the Circuit Court to one thousand dollars, in all that class of cases that are now tried by justices of the peace, with the right of appeal in all cases. In forming these judicial districts, regard should be had to the condition and situation of a county, without attempting to get, in all cases, an exactly equal number of inhabitants. There are villages, or other centres of business, in almost all the counties, where the mercantile and mechanical business is mostly done; where, perhaps, there is a post office, mill, &c., and where, in short, the people meet to transact most of their business of various kinds. Take, for instance, the county in which I reside. There are five villages of considerable size scattered over the county, where the people of the adjacent neighborhoods meet to do their business—about as many, I suppose, as we should have representative districts. Now the judicial districts might conveniently be so arranged that one of these business centres would be in each district.

In the new counties, perhaps, they would not need more than a single district. The supervisors would know well the wants and wishes of the people in this respect, and would undoubtedly provide for them. At the end of each judicial term of five years, which would be as often as the census would be taken, these districts might be changed, enlarged or diminished, as might be requisite or convenient; or abandoned, if this court should be found unnecessary or useless.

The mode of doing business in this court I would have the same as in justices' courts. I would have process issued and made returnable in the same time; dockets kept in the same manner, and fees the same.

Can there be any very great objection to such a court? It will cost the public nothing. Those who dance will pay the music; or, in other words, those who employ the courts will pay them. If they do no good, they will certainly do no great injury. They will be like homœopathic doses, in this respect. Are gentlemen afraid that competent men cannot be found, or, if found, will not accept of such an office for such fees as justices have? I think they are mistaken. I don't suppose that men of great legal attainments can be obtained for every district; but, sir, I think that men of good sound common sense can be found, who, with the experience they will soon have, will be competent. It is experience that qualifies men for this as well as any other business. Why is it, sir, that you find competent justices in cities and villages, and generally nowhere else? Are they not made competent by experience? And is it difficult to find good and competent men, who are willing in such places to accept such offices? Not at all. The amount of business gives, in the shape of fees, what in the aggregate would amount to a handsome salary. I was told, sir, that the county judge in the county where I reside was very unwilling to accept of a nomination for the office of county judge, because he thought he could not afford to give up the office of justice, which he then held, for that of judge. His fees, probably, would be much more than his salary as judge; although the latter would be near or quite a thousand dollars. Well, sir, if the office of justice of the peace is in some cases so lucrative, with the amount of business that would probably be thrown into this district court, should it be established, I think there would be no difficulty in getting good and competent men to take the office—such as would generally give satisfaction. If, however, a party should be dissatisfied with a decision in this court, he can, by appeal, carry up his suit and have a new trial in a higher court, with very little more expense, and no more delay, than if it had been there commenced.

Sir, the advantages of such a court would, in my opinion, be many and great. It would bring justice home to every man's door, or sufficiently near for convenience. It would afford an opportunity to have a jury of the vicinage. We should probably hear no more complaint about delay and expense. It would be a cheap court, a speedy court, and ever open. It would greatly relieve our Circuit Courts, so that they would be enabled to clear their dockets in season. It would be a suitable and proper court for the trial of small crimes, and would be a safe substitute for grand juries to examine high offences, and bind over or commit, as might be necessary. It would be emphatically the people's court—just what they require. It would, in my opinion, give more satisfaction to the people than all the other judiciary reforms that have been suggested. Indeed, they will not long be satisfied without it, or something like it. Gentlemen may ridicule it as much as they please; if adopted, it will please the people; and if so, I shall be satisfied.

Mr. BAGG said—Although, when the gentleman from Washtenaw [Mr. SKINNER] had shadowed forth this new court, composed of a *high justice* or *little judge*, while debating the abolition of the grand jury, he was opposed to it, he should now vote for it. While this Convention was full, and we were not so dwindled down in numbers by disease and other causes, we had in this body a majority for what is called the separate or independent court. But now, for want of numbers, the tables are turned, and we are to have fastened upon us, these mongrel Circuit and Supreme Court systems, jumbled together into one. It was well known to this Convention that he had, by his voice and vote, endeavored to establish a separate Supreme Court, because it would be a system on which we could build. It would have order. The circuit system, as now adopted, was destitute of that "heaven's first law;" but this substitute would contribute to give the system order, and he should vote for it. He now felt bound to help perfect the mongrel court; and what would assist it so much, as this "poney judge?" Should this substitute prevail, he should move an amendment to have this *little judge* sit in bane in the Circuit Court, and review his

decisions in the same manner that the circuit judges did theirs in bane, in the Supreme Court. This would embellish it with nature's first law. Again, we had commenced running the race of popularity, by making the supervisors perform not only a great share of legislation in the State, but conferred upon the Legislature power to give them more. We had also made them the Supreme Court of the State—the court of last resort. It was no more than right, while we were analyzing the government, and piecing out an item here and there, to give an increased morsel to the justices of the peace. We should not forget to give one constable in the district, the appellation of High Constable, to render the system perfect in all its parts; and then by oiling the machinery of its parts by self-interest, it would all go down well together. One other argument to recommend this modern democratic divisibility of spoil, in the small way, was, that instead of such a central village as Ann Arbor monopolizing all the judicial pap of the county, other little villages like Ypsilanti and Saline could catch many of the crumbs that fell from the judicial table. He thought that with this section super-added, the system of the chief justice of the State, and the member from Monroe, [Mr. McCLELLAND,] would be complete. It had been said by the gentleman from Kent, [Mr. CHURCH,] that it was an illegitimate child, having no father; but it was sufficient for him to know that these gentlemen had consented to stand as god-fathers and sponsors for the darling; and, of course the State, with such gentlemen for responsibility, could not be in danger. He hoped the substitute would prevail; it was all that was wanted to make the court one of order, of system and perfection.

Mr. BEARDSLEY moved to amend the foregoing by adding thereto, "and justices' courts are hereby abolished."

Which was not agreed to.

The amendment of Mr. SKINNER was then agreed to by yeas and nays as follows:

YEAS—Messrs. Alvord, Axford, Bagg, Barnard, Burns, Carr, Chandler, Chapel, Choate, Church, Cornell, Crouse, Daniels, Eaton, Fralick, Gale, Gardiner, Green, Hanscom, Hart, Leach, Lovell, Morrison, Mosher, Mowry, N. Pierce, Prevost, Rix

Robinson, Skinner, Sturgis, Town, Wait, Webster, Whittemore, Williams—35.

NAYS—Messrs. P. R. Adams, W. Adams, Anderson, Arzeno, H. Bartow, J. Bartow, Beardsley, Beeson, Britain, Ammon Brown, Asahel Brown, Bush, Butterfield, Comstock, Conner, Gibson, Harvey, Kingsley, Lee, McClelland, Newberry, J. D. Pierce, Robertson, Soule, Storey, Van Valkenburgh, Walker, Warden, President—30.

Mr. **HANSCOM** offered as a substitute for the entire article, the article introduced by himself on the 5th inst., (see page 759,) modified so as to read, "in counties having a population of 10,000," in sections 13 and 16, instead of "15,000," as originally offered.

Mr. **WILLIAMS** moved the following as an additional section to the substitute:

"The Legislature shall have power to establish courts of conciliation, with powers and duties prescribed by law."

And the same was accepted by the mover.

Mr. **GALE** moved the following additional section to the substitute:

"Every person of the age of twenty-one years, of good moral character, shall have the right to practice in any court in this State."

Mr. **MCCLELLAND** moved the previous question on the article, and the same being demanded, and the question being, shall the main question be now put? the yeas and nays were ordered thereon, when,

On motion of Mr. **ALVORD**, a call of the Convention was ordered; and Messrs. **McLEOD** and **ROBERTS** were absent without leave; when the Sergeant-at-arms was dispatched to procure the attendance of the absentees.

Mr. **CHAPEL** moved the Convention adjourn; but the Convention refused to adjourn—yeas 10, nays 58.

The **PRESIDENT** announced the appearance of Mr. **ROBERTS** within the bar, and the confinement of Mr. **McLEOD** to his room on account of indisposition.

On motion of Mr. **DANFORTH**, all further proceedings under the call were dispensed with.

The question being, shall the main question be now put? it was so ordered—yeas 39, nays 30.

The additional section proposed to the

substitute by Mr. **GALE** was then agreed to.

The question now being on the adoption of the substitute proposed by Mr. **HANSCOM** for the entire article, the same was rejected by yeas and nays as follows:

YEAS—Messrs. Alvord, Axford, Bagg, Carr, Chandler, Chapel, Church, J. Clark, Comstock, Crouse, Daniels, Fralick, Gibson, Hanscom, Hart, Harvey, Lee, Morrison, Mowry, Newberry, Roberts, Robertson, Rix Robinson, Sturgis, Van Valkenburgh, Walker, Whittemore, Williams, President—29.

NAYS—Messrs. P. R. Adams, W. Adams, Anderson, Arzeno, Barnard, H. Bartow, J. Bartow, Beardsley, Beeson, Britain, Ammon Brown, Asahel Brown, Burns, Bush, Butterfield, Choate, Conner, Cornell, Danforth, Eaton, Gale, Gardiner, Green, Hascall, Kingsley, Kinne, Leach, Lovell, McClelland, Mosher, J. D. Pierce, N. Pierce, Prevost, Skinner, Soule, Storey, Town, Wait, Warden, Webster, Whipple—41.

Upon ordering the article to a third reading, the yeas and nays were had, and the result was as follows:

YEAS—Messrs. P. R. Adams, W. Adams, Anderson, Arzeno, Barnard, H. Bartow, J. Bartow, Beardsley, Beeson, Britain, Ammon Brown, Asahel Brown, Burns, Bush, Butterfield, Carr, Choate, Conner, Cornell, Danforth, Daniels, Eaton, Gale, Gardiner, Green, Hascall, Kingsley, Kinne, Leach, McClelland, Mosher, J. D. Pierce, N. Pierce, Prevost, Robertson, Skinner, Soule, Storey, Town, Van Valkenburgh, Wait, Warden, Webster, Whipple—44.

NAYS—Messrs. Alvord, Axford, Bagg, Chandler, Chapel, Church, J. Clark, Comstock, Crouse, Fralick, Gibson, Hanscom, Hart, Harvey, Lee, Lovell, Morrison, Mowry, Newberry, Roberts, Sturgis, Walker, Whittemore, Williams, President—25.

So the article entitled "Judicial Department" was ordered to a third reading.

On motion of Mr. **LEACH**, the Convention was resolved into committee of the whole on the general order, Mr. **DANFORTH** in the chair.

The committee took up for consideration the article "Miscellaneous Provisions."

Section one was read and passed over without amendment.

Sec. 2. Lands now flowed, and unim-

proved lands which may hereafter be flowed by the erection of mill dams, shall be paid for in the manner to be provided by law; and the actual value of the land flowed shall be determined by a jury of freeholders; and such value, and the expenses of determining the same, shall be paid by the party erecting the dam.

Mr. N. PIERCE moved to add to section two:

“Provided, That the lands of any person shall not be flowed or used without the consent of the owner thereof.”

Mr. P. said—I see much difficulty in this section. I live on the side of a river, and I am opposed to having that river flowed up to my house, to the injury of my family. To destroy a man's farm and a man's family for the maintenance of a mill dam, is not right.

Mr. WILLIAMS—I would inform the gentleman from Calhoun, [Mr. N. PIERCE,] that it only contemplates unimproved lands.

Mr. N. PIERCE—I don't care for the land; I don't want the water flowed up to my door.

Mr. WILLIAMS—In all laws we must look to the interests of the whole community, not to the inconvenience of the few. If the Convention of 1835 had adopted such a provision as this in our constitution, an immense amount of money would have been saved, litigation averted, and ill feeling avoided. If we do not lay down some fundamental rule for the settlement of these cases, litigation will be endless, illimitable. In the present state of things, a malicious person may get possession of a few acres of flowed land, and the prosperity of a whole community depend on his caprice. “The greater the pig, the greater the mischief.” The difficulties involve the innocent as well as the guilty. I live in a village whose thrift depends mainly on manufacturing industry. If an ugly, malicious person could get possession of twenty acres of land under the mill pond, he could stop the wheels of industry, paralyze the energies, and impair the prosperity of the place. He could destroy, or at least injure the value of the property of a thousand people, and, what is worse, cut off a market for the agricultural people around. Fortunately, no such mischief can be incurred by us; but I do know of villages almost destroyed by the fact that,

dog-in-the-manger like, men hold the entire property of a community between their thumb and finger.

When the State was first settled, farmers squatted on their lands; men of small capital, urged by solicitations of neighbors and friends, invested their limited means in the erection of dams and mills. Land apparently valueless was flowed, generally belonging to the government. Sometimes, by reason of errors, private lands were flowed. It was an obvious way to eke out slender means, to leave the flowed lands to be paid from earnings. Almost invariably the experiments proved disastrous, and all over the oldest settled parts of the State, men were found who would seize these flowed government lands, and lie in wait for opportunities to bleed their victims. On the breaking of dams they would procure injunctions and stop the mills. It is said these are private matters. It may be so, but this species of litigation, for the prompt settlement of which some just mode is sought, has a disastrous, withering effect on the public. In fact, oftentimes the injury to the vicinity is more fatal than to the belligerent parties themselves. There is scarcely a man among us who does not know, within the sphere of his observation, of cases of the kind I describe; instances of extreme cruelty and hardship, causing animosity, distress and ruin.

It is not for the present, only, that some method of settling these questions should be adopted. Looking to the future, it is still more important. If I mistake not the signs of the times, the day is not remote when the public lands will be gratuitously distributed in limited quantities to actual settlers. But nine millions of our whole area are already located. Twenty-five millions remain to be disposed of. Now, I want to lay down some fundamental law by which the relative rights and duties in this regard, of the millions who shall occupy this domain, shall be determined. We could confer on them no greater blessing than by taking warning from the bitter experience of the present generation, anticipate their difficulties, and avert from them the litigation and trouble, and loss, the present population must incur. Leave it to chance, and the man who gets his land as a boon may use it to embarrass all around him. He may show his gratitude

to Providence—he may thank the government for their kindness by seizing and preventing the use of the element designed for the use of all. For one, I want to see some fundamental law now established, so that when any one of the future millions inhabiting both of our peninsulas, puts his spade into the earth, he may know exactly on what terms and conditions he does so.

I know it is said this is an infringement on private rights. We have set abundant precedents in this constitution, already. We have provided that inaccessible private property may be reached by obtaining a road over the land of another. Rail roads are authorized by general laws, and municipal corporations can take private property for general use. We must take the world as we find it. The troubles exist, and, some day, remedies must be found. A general remedy is here sought, which shall do harm to none, and benefit all. Such a provision, then, is demanded by every consideration of justice, policy and wisdom. Justice, as regards the present; policy, as regards the future.

The air, the water, and the earth, are given to mankind for their inheritance and enjoyment. The earth cannot become subject to a tenantry in common, but water approaches the air in its character. No man owns the running stream. I contend that no man should use this great gift of nature to the detriment of others. By its use, man's energies are multiplied and his comforts increased. A man in the accidental possession of the banks of a stream, which he neglects to use himself, should not be allowed to deprive others of its use above or below him, when compensation is provided, and no positive and direct wrong is inflicted.

Formerly the object of laws was more the protection of property. It is now more the protection of the individual man. The man must be protected first; the community of men next, and property last. Where the rights of property conflict with the rights of the individual, or the rights of the aggregate community, the former must yield; and whoever grasps a small part of the great common inheritance, and uses it in such manner as to prevent the development and welfare of the whole community, should be compelled

to yield. It is no part of the duty of a wise government to render the whole family of man the victim of one; and to encourage one man to become a dog-in-the-manger towards his fellows.

The time may come when our population treads fast on the means of support. Their energies can be mightily increased by converting to purposes of industry all the water power of both peninsulas. In water power lies the capacity which enables one man to do the labor of many. Whoever by labor produces most, is a benefactor. He who uses the element in industrial pursuits, is a benefactor; and whoever prevents its use, is a curse. I said that if the Convention of 1835 had adopted some general rule to quiet this subject, they would have saved hundreds of thousands. If we do not do it at this time, we shall voluntarily suffer millions to be squandered hereafter, litigation to be perpetuated, and strife and contention to continue on this subject; all of which it is our duty to avert.

Mr. WHITTEMORE would add "unimproved lands now flowed."

Mr. WILLIAMS—There may be individual cases which it is difficult to provide for. It is the aggregate result that must be contemplated in a law or constitutional provision. At the worst, the injured party must obtain the full value, and all the damages. No wrong is done. On the other hand the instances are far more numerous, of men, from mere malice, obtaining small pieces of flowed land from malice. The result is, sometimes, to say nothing of ill blood and animosity—the result is waste and destruction of valuable property, in law suits. I know of property rendered useless, and dismantled and abandoned, in consequence of such troubles. In such cases the neighborhood suffers more than the parties in conflict. What more just to the parties themselves—what more just to the public—than to compel them to adopt a tribunal of a jury of free-holders to settle such serious difficulties? Gentlemen place the whole subject in the light, that the person flowed must be the innocent party. My experience convinces me that his antagonist is the innocent party in four cases out of five. Allow them to be equally innocent, equally responsible for blame. The community has its own interests to

protect, adversely to both, and ought to take care of its welfare.

There are many other considerations I should like to present, but the committee are impatient and I will desist.

Mr. MORRISON said, in regard to the proposition of his colleague, [Mr. N. PIERCE,] if it were adopted, the matter would be left precisely as it stood before. By consent of parties, lands can be flowed now; but it is desirable, if it be possible, to obviate the difficulties which have heretofore been experienced. There are hundreds of cases where parties have erected dams without being able to ascertain exactly the extent of land which would be flowed; in which they have had to pay ten times the value of the damage.

If some equitable mode of settling the damages could be fixed in the constitution, it would result in a great saving of expense. Suits have been carried on to the ruin of parties, especially to those commencing the suit, who are generally ruined before they get through.

Mr. N. PIERCE—No man has a right to take my land, any more than I have to take his mill; yet it would be considered an outrage to take his mill, and have the damages assessed; but it would be no more so than his overflowing my land.

A man should not build a mill on a sandy foundation; he should know whom he is going to injure. One complaint against the gentlemen of the class my friend has described, is that they kill the people—that a mill dam is a damage to life—that sickness and mortality surround it. Should such a thing be protected? It is one of the most wicked things ever offered: to allow one man to take another man's property, and build up a pond to destroy his health and that of his family. If you think that moral, then has morality got to a pitch I never heard of before.

Mr. MORRISON—This is a question that has nothing to do with sickness. If a mill dam produces sickness, or becomes a nuisance, it can be provided for as other nuisances are. If the health of the inhabitants is jeopardized, it should be taken down.

We provide that corporations may be formed for the construction of plank roads and other purposes, by which we can ride through the gentleman's improved

lands. Is it of more advantage to have a plank road than a mill? The advantages arising to the public from the erection of mills are equal to any other improvement in the State; yet not a mill can be built or a dam erected without overflowing lands.

Mr. CHAPEL hoped the amendment offered by the gentleman from Calhoun [Mr. N. PIERCE] would not be adopted. The gentleman was a great stickler for justice and other reforms; yet nothing would be found more beneficial to the community than the provision in the second section relating to mill dams. He [Mr. C.] resided in a level country, where it was almost impossible to get a water power without overflowing to a considerable extent; and yet mills are indispensable. At Lapeer they have a pond overflowing some 3,000 acres. It consists of a lake and extensive marshes, with here and there an island. Any person can go to the land office and enter a lot, and if the dam goes down, can prevent its erection. Such may be the consequence to those who have spent their fortunes, and toiled in a new country; and under the system of justice prescribed by the gentleman from Calhoun, they can have no redress or compensation.

At an early date, a mill was built at Canandaigua, in Oakland county, by which the whole of the neighboring district has been benefitted. It overflowed a marsh around a lake; the land around the lake was entered; after a time, the dam went down, and the land became bare of water; they immediately took out an injunction to keep the dam down; thus destroying the property accumulated by a life of hard labor. Is that the gentleman's justice, that would gratify a malignant person by making a bankrupt of another?

The present state of the law is really a great hardship when the vast interest is considered which is affected by it. The farmer, the agriculturist, is as much interested in it as the miller; as property invested in this manner enhances the value of their products. Many have erected mills at great expense, flowing back on wild lands; a person, from malice or some improper motive, may enter the lands, though flowed, knowing that a time may come when they may be bare, when they would slap in an injunction.

Mr. GALE expressed himself opposed to the amendment, and in favor of the section as it stood. Mill property was of much public benefit, and ought to be sustained. Wherever property was injured by overflowing, compensation should be made; but it should not be left in the power of one man to control the property of another. It ought to be fixed so that enmity could not step in and overrule justice. A public benefit should not be taken from the community at the caprice of an individual. If you take twelve freeholders, will they decide anything unjustly? Certainly not. They will have the same interests at stake.

In case of a mill dam making a place sickly, there is another remedy; it then assumes another character. The object of the section is only to allow the taking of a man's property which may be made a public benefit, as in the case of a highway.

The amendment did not prevail.

On motion of Mr. BRITAIN, the following was added to section 2: "but no person shall be permitted by flowing to injure any other improved water power."

On motion of Mr. ROBERTSON, the words "and damages done" were added to line 2, and "damages" was inserted in 3d line, after the word "value."

On motion of Mr. CORNELL, the word "erecting" was stricken out of line 4, and "maintaining" inserted.

Mr. CORNELL moved to strike out "unimproved," in line 1; which did not prevail.

Mr. GALE moved to insert after "paid," in line 4, the words "or tendered;" which was afterwards withdrawn.

Mr. NEWBERRY moved to strike out section 2; but the committee refused to strike out.

Mr. DANIELS moved to strike out section 4, which reads:

"No mechanical trade shall hereafter be taught to convicts in the State prison of this State, except the manufacture of those articles of which the chief supply for home consumption is imported from other States or countries."

Mr. BRITAIN trusted the committee would duly consider the section before they decided on striking it out. It may be that in counties remote from the State prison, persons may not see or feel the necessity

of retaining the section; but there are many considerations that should influence the votes on this question, in which the interests of the State were to a considerable extent involved.

Mr. N. PIERCE—If they will remove the prison to Marshall, we will not ask the State to stop the labor of the convicts. I have examined the prison, and I do not find an article manufactured there in which the market is overdone. Every thing sold there is surplus production. I do not believe it lowers the value of wagons one cent. It does not injure the working-men of Jackson one dollar in 365 days. If this motion prevails, I wish they would add a miscellaneous provision to remove the prison to Calhoun county. It is so much value added to the State, without injury to any one. Fifteen times as many wagons are brought into the State from other States as are made in the State prison at Jackson, and those made there do not lower the price one cent.

Mr. MORRISON did not agree with his colleague [Mr. N. PIERCE] in regard to moving the State prison to Marshall. He was satisfied that the mechanics of Calhoun county complained of the competition of the State prison labor, and had petitioned the Legislature in '49 and '50 on the subject. Mechanics say they can get those wagons up for fifteen dollars less at the State prison, than they can be afforded by the regular wagon makers. A man there will make a pair of boots in a day, for which the contractor pays 28 or 30 cents; a regular mechanic cannot make them for less than one dollar. No honest mechanic can manufacture them at that price.

Mr. N. PIERCE—Does not the gentleman [Mr. MORRISON] buy boots and shoes from the State of New York?

Mr. MORRISON—No sir; I can buy them from the contractor of the state prison cheaper than I can get them from the State of New York. What is the object of establishing the State prison? Is it not for the punishment of crime? Are we to put them there to compete with the innocent mechanic? They should be employed in such a manner as not to interfere with honest labor. We ought to consider the good of the whole, and especially ought we to protect honest industry.

Mr. STOREY—This section was a provision in the revised statutes of 1846. It was placed there, after considerable agitation among the people, and after the whole subject had been very thoroughly discussed in both branches of the Legislature, as the settled policy of the State in regard to prison labor. Two years after, sir, it was repealed; and *how* was it repealed? I will tell you, sir. It was repealed, as I believe, through the influence and for the benefit of interested contractors at the prison. The repeal bill did not pass the House until the last night of the session, and then, sir, it was smuggled through. I doubt whether one-half the members knew what the bill was when it passed. We had three members in the House at the time from Jackson county, and though it be not very complimentary to say it, it is nevertheless true, that neither of them were aware of the passage of the repeal bill; and yet one of them made it his particular business to watch it. I state this to show in what manner, and for what purposes, the section in question was repealed. The repeal was a fraud, and interested contractors reaped the benefit of it.

And what was the consequence of the repeal of this section? It was, sir, that the then existing contracts were extended some five years, at the low and inadequate prices previously paid; when, had the section been allowed to stand, and a re-letting of the labor of all the convicts taken place at the expiration of the existing contracts, an advance of from 40 to 60 per cent. upon the former receipts from contractors might have been realized by the State.

Now, sir, there is no fear that the adoption of this section in the constitution will operate injuriously to the State. I believe, rather, that in a financial point of view, it will be a beneficial measure. I believe that under it an advance of not less than sixty per cent will be had upon the prices now paid for labor in the prison at the next letting of the contracts. I believe that under it, in two years, the prison will be a self-supporting institution. I have no doubt of it, sir. The most profitable contract now existing is one which does not interfere with mechanical trades in the State; and it is my own judgment that, hereafter, those will be most profitable which do not thus interfere.

But, sir, whether the prison will support itself or not, is a question of minor importance, when compared with the great considerations of RIGHT and WRONG, involved. In my view, the State has no right to erect a monopoly which will interfere with the single-handed industry of any class of her citizens. Every class of labor is entitled to the protection of the State, rather than to be brought into competition with her. Such competition is unfair, unjust and ruinous. No class can stand up under it. It operates as a blight and a mill-dew, sir. Far better would it be, and much more in consonance with equality, and justice, sir, to levy a tax upon all the property of the whole State to support the public prison, than that a single class of citizens should be made to support it, and that a laboring class. And, sir, were it necessary to levy such a tax, (and I am glad to say it is not; for, as I said before, I believe the prison will be able to support itself,) instead of carrying on those branches of business which interfere with individual mechanics, it would be good State policy to do so. What class of people do more to build up your cities and villages? Who add more to the wealth and to the taxable property of your State than the mechanics? Next to the farming interest, sir, the mechanic is of the most value to the State. He is indispensable. He is one of the great spokes in the wheel—aye, sir, he is one of the wheels itself—upon which we all roll on to prosperity and greatness. What folly, then, to pursue any course of policy which has a tendency to keep this class of citizens out of our State, or to drive away any portion of those who are already here.

There has been a large number of petitions, very numerous signed, sent up here from different portions of the State, asking a constitutional provision upon this subject. I think these petitioners know as well what is wanted by the mechanics of the State as the gentleman from Calhoun, [Mr. N. PIERCE,] who preceded me. I know very many mechanics who are fully the equals of that gentleman in intelligence, and perhaps his superiors in many other respects, who understand this question practically as well as theoretically; and, sir, they demand relief, and will continue to demand it until they obtain it.

And, sir, before I sit down, I have simply

this to say: that if this Convention, of its own volition, does not settle this question, a spirit is rising in the State which *will* settle it. If the present policy is persisted in, if a class is continued to be singled out and oppressed, that class, *by their votes*, will redress themselves. There is no mistake about it, sir. The evil must be corrected; and the sooner it is done, the better. New York went through the excitement of a contest of this kind, and the result was that she had to change the whole direction of her prison labor; and she lost nothing by it.

The motion to strike out the section prevailed.

Section 5 was then read:

Sec. 5. All rivers and streams of water in this State, in all places where the same have been meandered and returned as navigable by the surveyors of the United States, are hereby declared navigable to such an extent that no dam, bridge, or other obstruction may be made in or over the same without authority, granted by the authority of the Supreme Court, under a general law to be enacted by the Legislature of this State.

Mr. BRITAIN offered the following as a substitute for section 5:

"No navigable stream in this State shall be either bridged or dammed without authority from the board of supervisors of the proper county, under the provisions of existing laws. No such law shall prejudice the right of individuals to the free navigation of such streams, or preclude the State from the further improvement of the navigation of such stream."

Mr. WILLIAMS hoped the amendment would not prevail. It would lead to endless litigation. No act, either of the Legislature, or of the board of supervisors, can alter the supreme law of the land. The Supreme Court will know whether an act conflicts with the rights of private persons or the public, or the ordinance of '87. The Supreme Court should decide the matter in the first instance.

Mr. CHURCH said it was provided that no damming or bridging of streams should be effected without due notice being given to the parties interested, so that a fair hearing might be had in respect to their rights, and a proper decision had. Having

that in view, the committee were of opinion that the Supreme Court would be the most proper tribunal to decide in each case. The court will sit in every district; at one session, notice might be given to all parties concerned; at the next, objections could be made and answered, and the decision of the Supreme Court could then be made as to the propriety of bridging or damming, as would, most probably, be satisfactory. To obtain a careful examination of the rights of parties, and a well considered decision, the committee were of opinion that the Supreme Court would be the most proper tribunal. Perhaps some little more expense might be incurred in the beginning, but afterwards, that expense may be avoided. A decision by the board of supervisors might be made without a proper understanding of the rights of parties, so that litigation would spring up.

[Mr. C. referred to bridges built across the Grand River, under an act of the Legislature.] Owners of steamboats have come forward and said if they are not taken down, or some arrangement made so that steamboats can pass, they will enter proceedings against them, as they are entitled to have the navigation free, under the provisions of the ordinance of '87. Had due notice been given to parties, the proprietors of steamboats and others interested in having the stream free of obstructions, would have presented themselves, and the rights of parties would have been protected, while the interests of the public had been promoted, and no opportunity afforded or place left open for dispute. It would be far preferable to have safe and deliberate decision, though it might be attended with a little more expense in the out-set, than a cheap and hasty one, which would let in interminable litigation.

Mr. WHIPPLE would suggest the propriety of confining the authority of supervisors to the erection of bridges. The public are interested in the construction of mills, but they are deeply interested that the streams are not permanently obstructed by the erection of dams. The subject of mill-dams had better be left to some responsible court. To protect the interests of the public, under the ordinance of '87, he thought the power should be reserved to the Circuit or Supreme Court.

Mr. CHAPEL said he did not see the

force of the argument of the chief justice, [Mr. WHIPPLE.] A law may be passed regulating the matter, authorizing them to require a lock to be built where rafts or boats are required to pass. Mill-dams, constructed according to law, improve the navigation, where a lock is constructed to let boats and rafts pass; and yet the waste water may be valuable for impelling machinery.

I am opposed [said Mr. C.] to bringing everything the people do into the courts. This is decidedly a matter which should be settled by the constitution; some distinct board should be established, or some principle fixed to facilitate the erection of dams on some safe basis. He believed men would be found on the boards of supervisors, as competent to determine and decide on the propriety of erecting a dam, as two or three judges on the bench. He believed judges as likely to be influenced by feelings of partiality as others. He wanted something fixed and settled.

Mr. WHIPPLE said the court was not so likely to be interested in the locality; besides, a man erecting a dam in one county might interfere with the rights of those in another county. He thought the power would be best left with the Circuit or Supreme Court; but he made no motion on this subject; he left it in the hands of his colleague, who he knew was disposed to do what was right.

Mr. J. D. PIERCE proposed to add to the amendment, "except as shall be prescribed by law."

Mr. WILLIAMS—The gentleman from Macomb [Mr. CHAPEL] wants to know when he builds a dam, if he is secure in the right.

Mr. J. D. PIERCE—May not the decision of the court be overruled?

Mr. WILLIAMS—I will answer that question. I recollect a case in which the Legislature authorized the building of a dam. The right was contested and brought into court. The counsel thought the act of the Legislature of so little account, that he did not condescend to read it. It would be altogether improper to authorize the supervisors to do what the courts may reverse. Dams ought not to be erected without the authority of law. If streams are navigable, (and the question has to be tried as a question of fact, whether the

stream be navigable,) all that a person has to do is, to ascertain whether a stream be navigable; if it is not, the Legislature can authorize the building of a dam, and it will be safe. I live (said Mr. W.) on a stream that runs through two States, and we have felt the inconvenience of those unconstitutional laws. They have built three or four bridges across the St. Joseph river in the State of Indiana, and two dams of the very worst description. If you give this power to supervisors, they can reduce the value of every foot of land in the county above them. Every foot of land in St. Joseph county is injured by obstructions on the river St. Joseph, as it passes through Indiana.

If supervisors are allowed to put bridges and dams across rivers, their authority for so doing will be of no weight; the question of right will be taken to the courts; it will necessarily lead to litigation and increased expense. The gentleman from Macomb says he wants to know his right when a dam is erected. That he cannot know by leaving the matter discretionary with the boards of supervisors. The law anticipated from the Legislature must be a general law, embracing all the rights belonging to individuals and the public. Under such a general law, let the Supreme Court decide when locks shall be put in or not, as well as their proper dimensions and construction, so that navigation may not be impeded.

As to the expense, it had better be incurred in the outset, than left in such a shape as to be liable to an indefinite amount of expense in litigation afterwards. We find men besieging the Legislature every session, for special acts, and when obtained they are mere waste paper. The State bears the expense of this legislation, and the cost to the individual obtaining it is far more than would be incurred by an application to the Supreme Court.

Mr. J. D. PIERCE would ask the Chief Justice [Mr. WHIPPLE] what is meant by a navigable stream? Whether, if a stream has been declared meandered, and you can pass down it with a birch bark canoe, is it considered navigable?

Mr. WHIPPLE—It is always a question of fact whether a stream is navigable or not.

Mr. VAN VALKENBURGH said he

was not very much versed in this question of dams and bridges; but some power must decide, and he thought the Supreme Court the better tribunal to settle the matter. He thought no influence could be brought to operate on the Supreme Court, but which was likely to operate with greater force on the boards of supervisors. The gentleman from Macomb [Mr. CHAPPEL] seemed to have some antipathy to this court. His feelings were, perhaps, influenced by some past experience. Some one says:

"No one can feel the halter draw
With good opinion of the law."

The supervisors have local feelings and interests to subserve, which the court has not. He should, therefore, consider the court the best tribunal in which to place the authority.

Mr. BRITAIN said, whenever the amendment offered by the gentleman from Calhoun [Mr. J. D. PIERCE] was disposed of, he would give his reasons for his proposition.

Mr. J. D. PIERCE withdrew his amendment.

Mr. BRITAIN said he would state his reasons why section 5 should be struck out. He [Mr. B.] had all his life been engaged about navigable streams and rivers, and he could state that the returns of surveyors of streams meandered, was no evidence that they were navigable streams. He had been extensively engaged in surveying, and had meandered streams for miles into the interior, when he had no instructions to do so, and for which he was not paid; his object was the good of the country. Under the provisions of this bill they would be made navigable.

His next objection was to giving to the Supreme Court what he considered legislative powers. Why are the powers of government divided? Is it not that applications of this kind may go to the Legislature; and if they grant privileges which the fundamental law of the land does not grant, they may go to the courts? What does this do? It makes the courts legislative. Are there no rights but what are involved in present interests that should be considered? Under this provision, dams may be erected where no person living in the State has an interest; yet may not persons coming in a few years afterwards

have rights under the constitution of the United States; and others higher up the stream have their rights jeopardized?

My substitute (said Mr. B.) proposes that no navigable stream shall be bridged or dammed except by authority of the board of supervisors, under existing laws. It applies to navigable streams; not to a stream merely surveyed as such.

Mr. WILLIAMS—Then you give to the board of supervisors judicial powers.

Mr. BRITAIN—Who can exercise those powers better than a board of supervisors? We will suppose a case: by putting up a dam they can make a business point at Niles; but this will require the concurrence of the supervisors; but will the board of supervisors concur? No sir; they are from all parts of the county, and it would be much easier to obtain an order from the Supreme Court, than from the board of supervisors. But suppose the application succeeds, and the board of supervisors authorize a dam to be erected across the river at Niles, will they not look to the interests of the people generally, and require the parties to put in a lock for the facilities of navigation? If so, it accomplishes the purpose. Who are likely to know best whether there should be a lock, the court or the board of supervisors?

I am aware that my friend from St. Joseph [Mr. WILLIAMS] is alive to the protection of his rights; but are they not guarded under this substitute in every possible way?

Mr. B. would say one word on the general principle. He conceived the constitution of the United States to be the measure of the authority of Congress. He would call attention to article second, section eight, of the Constitution: which gives Congress the power to regulate commerce among the States. Under that clause they annulled the grant by the State of New York to an exclusive right of navigating the Hudson river by steam vessels. They claim the right to regulate the thoroughfares *through* the States among the several States—not merely *between* the States. The import of this provision has been mistaken by several statesmen; it was so by Mr. Calhoun, who considered it as applying to commerce *between* one State and another. It has no application to commerce with foreign states, because they are not among us; and with

respect to them different language is used. It is between them and us, as all thoroughfares are between them and us. It must be admitted that Congress has control over all our navigable waters among the States, and it is the duty of the general government to protect them; and the State of Michigan cannot deprive me of my right to raft lumber or transport produce on any navigable stream, by authorizing the construction of a dam across it.

The amendment I propose [said Mr. B.] provides for all that is necessary. If the board of supervisors do wrong, those injured can find redress in the courts.

On motion of Mr. HANSCOM, the committee rose, reported progress and asked leave to sit again, which was granted.

On motion, the Convention adjourned.

Afternoon Session.

The Convention was called to order by the PRESIDENT, and a quorum being present, was resolved into a committee of the whole, and resumed the consideration of the article entitled "Miscellaneous Provisions," Mr. DANFORTH in the chair.

The committee resumed the consideration of Mr. BRITAIN'S substitute for section 5.

On motion of Mr. SOULE, the word "supreme" was stricken out of section 5, line 4, and "circuit" inserted.

Mr. BRITAIN'S substitute was then adopted.

On motion of Mr. FRALICK, the committee rose, reported the article back with the amendments, asked the concurrence of the Convention therein, and to be discharged from its further consideration.

The first, second and third amendments made in committee were concurred in.

The 4th amendment (an addition to section 2) being under consideration,

Mr. MORRISON moved to amend the same by striking out the word "improved."

Mr. BUSH said it appeared to him that the question was not fully understood. It had been contended by those in favor of the amendment, that such a provision should be inserted in the constitution; that the public good required it. But did public good require that where there were two water powers on a stream, that the man

building first should destroy the other by drowning it? Would that be for the benefit of the public?

He [Mr. B.] had supposed the object was to prevent vexatious suits, and to protect water power; but it was obvious that if the amendment were adopted, and the section incorporated in the constitution, that one person owning a mill privilege on the lower part of a stream, might drown another out who had a privilege higher up the stream. This would destroy competition, which is always of benefit to the public.

Mr. COMSTOCK said he supposed the object of the amendment was to prevent litigation. It would be seen that if the motion should prevail, that a person may be precluded from building a dam by a man pretending to have a water power higher up the stream, and thus the benefit that would arise to the community from the water power, be lost. The article was properly guarded, and would secure the advantages derivable from water power to the community. By securing the rights of individuals and the public from litigation, it would stimulate persons to erect machinery and invest capital, and evidently tend to promote the public interests.

Mr. BUSH had supposed that if a measure so manifestly unjust, was understood, no gentleman would sustain it. We know (said Mr. B.) that the millers on this floor, who are so desirous to protect the public interests by a provision of this kind, established as the fundamental law, will be able to break down competition so beneficial to the community. No one will deny that a mill benefits the public; but the object in erecting a mill is private gain. The interest of the public is an incident. Shall we protect the interests of the public by increasing monopolies? Would the gentleman from Lenawee [Mr. Comstock] say it was for the interest of the community, if he had three feet fall in a stream, and I ten, to raise his dam ten feet? To destroy my competition, he might build at the head of his fall? He says a person might pretend to have a fall; but it must depend on the facts of the case. He could not establish it on such a pretence. No public interest could be promoted by allowing such a species of fraud as might be perpetrated under this provision to be practiced on the community.

Mr. WILLIAMS—I would like to say a few words in reply to some imputations thrown out by the gentleman from Ingham, [Mr. BUSH.] He charges the millers who happen to be here with having interests at stake—

Mr. BUSH—I made no charge against the gentleman from St. Joseph, [Mr. WILLIAMS.]

Mr. WILLIAMS—Well, but you left the inference to be made that the gentleman from Lenawee [Mr. COMSTOCK] and myself were interested.

Mr. BUSH—I have no doubt of it.

Mr. WILLIAMS—If you will assert it directly, I will give you such a reply as the case deserves. I have not a cent at stake in any flowed lands. I never mean to have. I can be involved in no controversy, and I can be affected in no wise by such a provision as contemplated, except adversely. Wild lands might be flowed in spite of me, in which I am or may be interested. I should then obtain value and damages, and no injury would be done me. In anticipation of a possible difficulty, I once secured land in order to be safe from trouble. I took care not to burn my fingers. The interest I take in this subject is prompted by the deep and abiding conviction in my own mind, that the energies of communities are frittered away, and their substance sucked out by vampires—by courts—by litigants, heated to an intense degree of animosity.

But, to return to the gentleman from Ingham. He talks about the audacity of millers. He is the last man who should talk about the selfishness or audacity of other men. He probably forgets his votes and action. When questions were before this Convention, in the settlement of which he was locally interested, I remember well when he rose to advocate his case, a smile of derision was visible in countenances, all over—

(Here the President called the speaker to order.)

When the gentleman from Ingham was personal, he was suffered to go on. But, never mind, I will say no more, except that I would commend the gentleman's attention to a couple of lines from Burns:

"O wad some power the giftie gie' us,
To see oursel's as ithers see us."

Mr. STURGIS said he held a water

power in Eaton county which he did not at present wish to use, and he was willing to allow the person who built first on the stream to have the benefit, as it would be advantageous to the neighboring community.

Mr. MORRISON withdrew his proposition to strike out the word "improved," and offered the following as a substitute for the amendment made in committee:

"This provision shall not apply to cases where, by flowing lands, any other water power shall be injured."

Mr. M. said he did not view the question in the same light as the gentleman from Lenawee, [Mr. COMSTOCK.] By adopting the substitute, those cases would be left as they were before. Considerable difficulty surrounded the subject; but there should be some settlement made of the vexed question of flowing lands.

Mr. BRITAIN said there was some propriety in the position taken by the gentleman from Ingham, [Mr. BUSH;] but it was common for persons to buy up water powers and hold them without improvement till they could sell them for a high price. Would the gentleman from Ingham countenance that? Though these persons do what they do legally, they must be considered the greatest oppressors to new settlements.

The question is, shall we encourage a new settlement in the use of its water power, or the interest of those who go ahead and grasp for their own benefit, the water power on streams without improving them? He believed every neighborhood ought to have the privilege of improving the water power for its own benefit; it would only be carrying out the provision of the constitution; it would only be taking private property for public use. It has been asked what is public property in a rail road, and answered that the public had the use; that the company were compelled to carry our freight at stipulated rates. Is it not so with mills? They are controlled in their business by law. If you prescribe by law that they shall do business in turn, and fix the toll they shall receive, beyond which they cannot go, are they not for the public use, and do they not carry with them the greatest possible benefit to new settlements?

Mr. BUSH said he hoped the gentle-

man from Berrien [Mr. BRITAIN] would go for the amendment of the gentleman from Calhoun, [Mr. MORRISON.] It would be an easy matter for a person building before there was a settlement, to procure all the facilities. It must be conceded that, without the amendment, the act would be of doubtful authority. He believed that the provision, though stamped in the constitution, would be void. He would ask if it was for the public good, where there were two water powers, that the first making an effort to improve should have the power to do away with all competition from the other? Would that be for the interests of the community?

The gentleman must know that when a neighborhood is desirous of having improvements made, rights may be easily acquired; but to place an article in the constitution, authorizing one person to take the property of another, was a monstrous proposition. He had been a member of many Legislatures, and had heard many propositions, but an effort was never made to carry the principle as far as that. He was willing to protect all persons in possession of that class of property mentioned by the gentleman from Macomb, [Mr. CHAPEL;] but there should be some reserve; individual rights demanded it—the right every one has to control his individual property. He hoped some modification would be adopted by which vexatious suits might be put an end to, without destroying that competition which was certainly of advantage to the public.

The amendment offered by Mr. MORRISON was adopted—yeas 35, nays 25.

The fourth amendment was then concurred in.

The fifth amendment, striking out section four of the article, being under consideration,

Mr. N. PIERCE moved to amend the same by inserting as section four, the following:

"Sec. 4. The Legislature of this State shall have the power of erecting a State prison, or removing the present prison, with the convicts therein, to the mineral country in the Upper Peninsula of this State, near lake Superior, for the purpose of working the mines and minerals in that district of the State."

Mr. P. said he had noticed for the last

few years, applications to the Legislature from the county of Jackson, for prohibiting the labor of convicts in the State prison; and it seemed to him that they might work in the mineral region with a great deal of use, convenience and prosperity, though he could not see that the labor of convicts in the prison at Jackson, reduced the value of mechanical labor. The principal employment in the prison was to make wagons; but he [Mr. P.] could buy wagons cheaper brought in from other States; great numbers were imported; and so it was of boots; great quantities are brought in from Massachusetts; and while that was the case he could not see any injurious effect the employment of the convicts could have upon our mechanics; but as the people of Jackson county were dissatisfied, he thought the prison might be removed to the upper peninsula with propriety. He hoped the proposition would be seriously considered.

Mr. STOREY—It is an *object*, Mr. President, to make the State prison support itself; but this is not *the* object for which prisons are instituted and maintained. I had always supposed that there were two great objects sought by the systems of prisons in this country—first, the punishment of crime, and second, the reformation of the criminal. But in this State, these two last objects seem to have been lost sight of. It seems to be no consideration with some that the State prison is a public benefit, inasmuch that its walls form an effectual barrier between the rogue, the highwayman, or the murderer, and the honest portion of community. It seems to be no consideration with many, that an hundred and thirty villains and vagabonds are kept so safely and securely, that the property of the honest citizen cannot be molested by them. No! If the words "State prison" are spoken, there is an immediate dismal howl raised by those in office and out of office of "expense, expense," just as if it could be expected that a State prison can go on the principle of a wind-mill.

Mr. President, there has been a good deal of money paid out of the treasury on account of the prison of this State, from the time it was first located; but not as much, by any means, as has been made to appear in certain public documents. Still,

the expenses have been larger than they need to have been. In the first place, the plan upon which the establishment was commenced, was better fitted for a State with two millions of inhabitants, than one of the size of Michigan at the present time, or what she is likely to be for a century hence. Why, sir, when the buildings are all finished, as originally contemplated, they will be capable of holding seven or eight hundred prisoners. And when will Michigan have so many? The plan was agreed upon, and the building of the prison commenced in a time of speculation, when everything went on "the big auger" principle; and who wonders the treasury bled?

But, Mr. President, no prison in the Union is conducted more economically, or at less cost for ordinary support, than our own. During the last year a very valuable building has been erected, at some cost to be sure; but I will venture to say that there cannot be found in the State a building of so much value put up for so little money. There are now nearly completed all the buildings that will be wanted for prison purposes for many years to come; and hereafter all the income of the establishment can be turned directly to its ordinary support. When the present contracts shall expire, and new lettings shall be had, there will be so great an advance in contract prices, that I have not a doubt the prison will be able to maintain itself. This much, sir, in regard to "expense," about which we have heard so much.

I said this morning that the most profitable contract at the prison is one which least interferes with mechanical trades in the State. This is true. And I have no doubt the gentleman having that contract would be glad to-day to get every convict in the prison at an advance of 50 or 60 per cent. on present rates. It will be the easiest thing in the world to turn the labor of the convicts into profitable channels; the manufacture of a thousand articles which will not affect our own mechanics.

There is, sir, a moral question of some magnitude involved here. The convicts are taught trades in the prison, and when they go out they are very likely to seek employment in shops where a like business as they have learned is carried on. If they have reformed, and become honest

men, this is all well. But, if not—if they are still foul with crime, what is the effect upon those they come in contact with—the journeymen and apprentices that fill the workshops of our cities and villages? Sir, it is at least degrading to the honest mechanic; and, in some cases, the contamination is fatal. The State, in this view of the subject, becomes the nursery for the annual growth of fifty or one hundred convict mechanics, who are sent out to sow the seeds of crime among a class of honest men. Is this right?

This is not a new question, Mr. President. As early as 1843, the democratic State Convention passed a resolution in favor of legislative action on this subject. This was the Convention which nominated Governor Barry the second time he was elected. On the meeting of the succeeding Legislature, such had been the exhibitions of public feeling, that the Executive in his annual message made a favorable recommendation upon the subject, suggesting the propriety of legislative action. The question did engage the attention of the Legislature. In the Senate, the committee on the State prison made a very elaborate report, examining somewhat largely the subject in its different bearings. The argument in this report is so copious, and so well adapted to the present moment, that, by permission of the Convention, I will read some extracts.

(Mr. S. read extracts from the report, which were not furnished to the reporter.)

I am not sure, Mr. President, whether any favorable action was had by the Legislature of that year, (1844,) but it was in consequence of a continuance of agitation that the section which was stricken out by the committee of the whole, this morning, was finally incorporated in the revised statutes of 1846. It was placed there after much discussion in both houses, of that year, and, as I said this morning, was deemed to be the settled policy of the State, in regard to convict labor. How the section came to be repealed, I informed the Convention this morning.

It is the dictate of good policy, no less than of true wisdom, to settle this vexed question now. If it is not settled, it will enter into the politics of the State; and every gentleman knows how desirable it is to avoid these collateral questions in politics.

There are petitions here from six counties, and some eight hundred petitioners. Last winter the Legislature had more petitions on this subject than on any other; and if nothing is done by us here, the next Legislature will probably be flooded by them. I may be asked, why not leave the whole subject to the Legislature, and why put this section in the constitution? Simply for the reason that I would place the provision beyond the power of repeal through the efforts of interested contractors or other persons. This much, surely, is due to the great mechanical interests of the State. I would prevent the recurrence of such a fraud as secured the repeal of this section from the revised statutes. Why, sir, I venture to say that the repeal of this section, and the extension of the contracts under it, have been an injury to the State of not less than ten thousand dollars; for all the convicts are now out at contract, at fifty per cent less than they would command in market to-day.

The eyes of the mechanics of the State are upon this Convention. They hope, they expect that something will be done to break the force of a State monopoly upon their individual pursuits. I trust they will not be disappointed. When the question is taken, I shall ask for the ayes and noes.

Mr. VAN VALKENBURGH said it appeared that some action of this kind was demanded from the Convention, and the reasons offered by the gentleman from Jackson [Mr. STORER] should influence the delegates. It was for the benefit of a most industrious class of our fellow-citizens, with whose labor the labor of the convicts comes in competition. Another reason is the moral influence exerted by sending our prisoners out to mix with the apprentices and workmen in the shops of our mechanics, which produces an immoral influence.

The Legislature of the State of New York was besieged in this way, till a new prison was built in the northern part of the State; and the prisoners are now laboring in iron works. The principal part of the business in the Sing Sing and Auburn prisons is carried on so as not to interfere with the labor of the mechanics in that region. It seems to me (said Mr. VAN V.) that there should be something done to prevent that question from being mixed up

with the politics of the State. It has been said that the ordinary support of the prison has drawn on the treasury of the State. That will be avoided if the prisoners hereafter support the prison; that is all that should be required. With respect to the amendment proposed by the gentleman from Calhoun, [Mr. N. PIERCE,] he [Mr. VAN V.] thought the upper peninsula ought to come down to the State prison, rather than the State prison go there.

Mr. CORNELL hoped the section would remain as originally reported by the committee. It was the duty of the State to manage the prison so as to be no expense on the treasury, but it could not be supposed that any prison in its infancy could do so and pay for the building. The principal expense has been for the building. This expense will not occur hereafter; and it was anticipated, and he hoped it would be the fact, that the labor of the prisoners will be sufficient for their support. He was led to infer, from what some gentlemen had stated in the Convention, that it was through mismanagement that the State had been involved, which did not arise from its location. It was the wish of the people that the competition between the labor of the prisoners and the mechanics in the village and neighborhood, should be avoided; and as some business might be carried on in the prison which would not interfere, it would be better to leave the section as it stood. He hoped the Convention would not concur with the committee of the whole in striking out.

Mr. BUTTERFIELD said—I trust, Mr. President, that the Convention will not concur in the amendment made in committee of the whole, by striking out the 4th section of the article now under consideration. And in doing so, I believe I speak the sentiments, not only of my immediate constituents, but the sentiments of a large majority of the people of this State. It was said by the gentleman from Calhoun, [Mr. N. PIERCE,] when the subject was under consideration in committee of the whole, that the objections to the present system were confined to a particular class, and that class a few mechanics in the village of Jackson. I regret that my worthy friend is not better informed upon this subject. If he had given ordinary attention to the business of this Convention, he would have

observed that petitions from several counties remote from the prison, numerous signed, have been presented and referred; and the committee to whom they were referred have, very wisely and justly, as I think, reported, in accordance with the prayer of those petitioners, the section now under consideration. By referring to the petitions upon this subject presented here, I find them to be from the counties of St. Joseph, Branch, Livingston, Kent and Lenawee, besides those presented from Jackson. All urge with earnestness upon this Convention the necessity of changing the present system of convict labor. In reply to the remark made by the gentleman from Calhoun, to which I have referred, I will only say I hold in my hand a petition signed by one hundred and ten inhabitants of Lenawee county. With many of these petitioners I am personally acquainted. I recognize among them the names of gentlemen of the highest respectability and intelligence, representing almost all the varieties of professions, occupations and trades carried on in that county, and yet these petitioners live more remote from the State Prison than the gentleman from Calhoun himself. Sir, it is not a question in which the mechanics of Jackson village or county only are interested, but, as has been very properly said by the petitioners from Lenawee, "all labor is more or less effected by the present system of convict labor."

There is another fact connected with these petitions, to which I wish to call the attention of the Convention. There is no one subject upon which this Convention has been petitioned from as many different counties in the State, and with the same unanimity as this subject of convict labor. Upon the subject of temperance we have had numerous petitions, but the petitioners have by no means agreed as to the proper action to be taken by this Convention. By the petitions now before me, nearly 800 persons have asked in emphatic language for some provision in the constitution we are now framing, by which convict labor shall be prevented from coming in competition with the honest, industrious and meritorious mechanic.

Sir, there is another view of this question, which is urged upon our attention by the petitioners. It is said that the present

system of educating convicts in all the different mechanical trades, and then sending them forth to mingle with the mechanics of our State, exerts a powerful influence for evil upon the morals of the community; and I will take this occasion to remark that, in my opinion, the philosophizing in which some gentlemen saw fit to indulge, on a recent occasion, in regard to this reform of the character and morals of convicts in the State prison, is all philosophy, and nothing else. It is not true in point of fact. You will rarely find a young man of correct principles, who has ambition to stand well in society, who is willing to work side by side with a convict from the State prison. He feels, and justly, too, that there is contamination in the association. There is a truth as venerable as the moral law, and as true as it is venerable: if you would preserve the morals of a community, the associations of the youth of that community must be pure.

Now, sir, with these petitions before us, are we to be told that these objections exist only in the minds of a few mechanics in the village of Jackson? Is it assumed that the constituents of my friend from Kent [Mr. CHURCH] have acted beyond their sphere? that they have no interest in the question?—that no notion of State policy induced 209 citizens of that county to petition this Convention for action on this subject? And yet this must be assumed by the gentleman, if, as he says, a few in the village of Jackson only are interested. Sir, the position is a bad one, and not sustained by fact or argument. The truth is, these petitioners, however remote from the prison, feel, as well as my own constituents, the paralyzing influence of convict labor.

Sir, if we would do justice to this large, respectable and most useful class of the community, and, at the same time, consult the welfare and interest of the State, we will retain this provision in the constitution. My colleague [Mr. STOREY] has very properly alluded to the action of the Legislature upon this subject. It is well known to every gentleman upon this floor that some action was demanded by a large portion of the people of the State. Petitions, numerous signed, in all parts of the State, were crowded upon the Legislature. The result was the passage of a law in accordance with the prayer of the petitions.

My colleague has given here a history of the repeal of that act. It is enough to say that it could not have been accomplished in any other way.

But, Mr. President, these petitioners have said that all labor was affected by the present system of convict labor. This is undoubtedly so, as it prevents the enterprising, hard-working and intelligent mechanic from settling among us, and making our State his home. All classes are interested; and that community consults its own true interest, when it gives proper encouragement to all varieties of mechanical operatives at home. It is to the productive hand of labor that we are indebted for whatever of wealth and greatness we, as a people, possess; then do not paralyze its energies by sapping the foundation of its success.

Sir, what would my economical friend from Calhoun do without a blacksmith, a wagon-maker and other mechanics in his neighborhood; how would he get his plow or his wagon repaired?

Mr. N. PIERCE—I would do it myself.

Mr. BUTTERFIELD—Then the gentleman is an exception to the rule. Most farmers wish to encourage in their vicinity every kind of mechanical labor. The delegate from Calhoun [Mr. N. PIERCE] has said a man cannot purchase a wagon for one cent less than can be purchased elsewhere; that they are manufactured in other States and sent here and sold for less money than the price paid for prison wagons. I hazard the assertion that the gentleman cannot purchase a wagon, of the same quality, and of as good materials, manufactured in or out of this State, at as low a price by ten dollars, as the contractor of the prison can afford them; and why? It is because the contractor hires his labour at thirty-three cents per day, including board and shop rent. Now, sir, can a mechanic, under the most favorable circumstances, compete with this trade? His material cost the same price; he must rent or own a shop; he must board his hands; and when he has done this, his expenses have equalled those of the prison contractor, and yet, sir, he has his laborers to pay. And this is the actual difference between the cost of the article to the contractor of the prison, and the man who attempts to carry on the business in competition with him. The ac-

tual difference in costs cannot be less than from fifteen to twenty dollars. With such a monopoly against him, how can the mechanic live? However energetic, industrious and frugal he may be, he must sink into poverty and want.

Sir, I wish to ask my agricultural friend from Calhoun, [Mr. N. PIERCE,] if he have the monopoly of the labor of a large number of hands, at thirty-three cents per day, when the regular rate of wages was one dollar; if he could not sell wheat and other grains, much cheaper than his neighbors?

Mr. N. PIERCE—I am a mechanic, and can furnish wagons for sixty dollars, as good as they sell at the State prison for sixty-five.

Mr. BUTTERFIELD—I was not aware that the gentleman was a mechanic. I supposed he was a farmer, and I believe he so reports himself in the manual. But whether one or the other, I must be permitted to doubt whether he would be able to turn out such a wagon as is manufactured at the prison for sixty-five dollars. But, under the supposition I have named, would he not be able to monopolize, as far as monopoly could exist in agriculture, to the extent, at least, of his ability to produce; could he not undersell his neighbor, and still make more money on the capital invested? Suppose, however, his last statement to be correct. If we have to pay more for a wagon—more than we should if this system was changed—for whose benefit is it continued? Is it for the benefit of the people? Most certainly not, if the gentleman is correct. It is for the benefit of a few contractors, and to the great injury of that class of mechanics. Change this system, and a fair and wholesome competition will spring up. Mechanics will be encouraged, capital will be invested; all the improvements in machinery, in aid of mechanical labor, will be introduced; and as by our encouragement they prosper, in the same ratio will be the prosperity of our State.

But, sir, the question presents itself, can it be so conducted as not to come in competition with labor outside the prison, without enjoining an expense to the State? How is it done in other States? I will only speak of what I know, and that is of the prisons of New York. In the prisons of

that State the manufacture of carpets, most kinds of cutlery, edge tools, hames, combs and brushes, are all carried on to a great extent. And this change has been made within a few years, after being loudly called for by the people. We have no complaints since the adoption of the present policy. Articles now manufactured in these prisons do not come in competition with the labor of their own citizens, but of other States and countries. Cannot we safely follow the example? This, sir, is what your petitioners have asked at our hands. If any thing in this constitution is designed to operate beneficially upon the interest of the whole State, and I will add for the benefit of the hardest working and poorest paid classes of the State, the Convention will retain this clause in the article now under consideration.

Mr. N. PIERCE—It does seem to me, sir, that the sympathy of the delegates from Jackson is great. I really pity the mechanics of Jackson. The actual work and materials of a wagon cost fifty or fifty-five dollars; what more is got is like raising wheat by a farmer over six shillings a bushel. The gentleman need not tell me that a wagon need cost sixty-five dollars. The iron does not cost more than twenty dollars. It is keeping up the agitation of those that ask and receive. It is necessary that the convicts should work; it is good for their health, and it keeps them from mischief. Most of the mechanical property is bought out of the State; it is not made in the State; but it is brought in for the express purpose of speculation. Of boots and shoes of every description, four-fifths are made out of the State. Importation is the rule. More wagons are brought into the State than are made in the State, and there are none in the market. The mechanics do not suffer.

I pity the Jackson folks. They have had fifteen thousand dollars a year in cash, from the treasury, and yet they say it is injurious to them. We have a part of the State in the mining region worth \$100,000. You can take the convicts up there, where they will not injure any body. By employing them there they will pay the State debt in a little time, and relieve the people of Jackson. I hope they will keep the section struck out. If they do not like my section, I hope they will put in another. I

went into the State prison as I came here and saw their work. I saw some good work; but I could buy similar articles for less money elsewhere. The competition is all the other way. I am convinced there are mechanics there, and more would be there if they had their due. When they come out they should have their dues, too. I would as soon have a convict come into my neighborhood and do blacksmithing as any other.

I think I am a good judge of mechanical business. I have worked at three trades. I sympathize with the people of Jackson. I shall do my best to get the State prison from them; it is a nuisance, and theirs is a nice place. If we can get the use of the convicts in the mines, it will be useful to the State, and relieve the poor mechanics—by-the-by, they get better wages than I do—but they will be entirely relieved. I think it is worthy of consideration. The more I look at it, the more I am convinced it is the interest of the State to establish the State prison in the upper peninsula, in the mining district. The purity of some parts of the lower peninsula is so great it is improper to have prisoners there. I hope it will be done. If we had those one hundred and thirty men there we should raise copper and iron enough to pay our State debt. We can do it and relieve the mechanics from a great burden and great distress.

Mr. STOREY would say one word only on the matter of competition. He knew, in those branches of business in which they are engaged, particularly boots and wagons, the mechanics in Jackson cannot compete with them—they have ceased work—they are driven from their shops. This was the fact there.

Mr. FRALICK hoped the action of the committee would not be concurred in, and that the section would be retained. He thought it right and just. It was asked for by a large share of our citizens, and was a right which we should not deny them. He regretted to witness the opposition of the gentleman from Calhoun, [Mr. N. PIERCE.] Some illusion seemed to have come over that gentleman's mind, which he [Mr. F.] hoped would be soon dispelled. It was a duty the Convention owed to a large class, to protect them from competition with convict labor. The labor in the

State prison might be so regulated as not to come into competition with them.

Mr. DANIELS moved the previous question; but the call was not sustained.

The question first being upon concurring in striking out the section, (4,) the same was non-concurred in, yeas 25, nays 35.

The substitute for section 5, reported by the committee, being under consideration, on motion of Mr. McCLELLAND, the original section was amended by striking out "supreme," and inserting "circuit."

Upon concurring with the proposition of the committee, a division of the question was had, and the vote upon striking out the section stood yeas 36, nays 20.

So the Convention concurred in striking out.

The question being upon concurring in the substitute, the same was concurred in, yeas 29, nays 27.

Mr. ROBERTSON moved to adjourn. But the Convention refused to adjourn.

The article, "Miscellaneous Provisions," being open for general amendment,

Mr. FRALICK moved to strike out section 2.

Mr. HART moved to adjourn.

When, by consent, Mr. McCLELLAND moved to reconsider the resolution adopted relative to the adjournment. And the motion was laid upon the table.

Mr. McCLELLAND moved to reconsider the vote by which the resolution was adopted limiting the time of speaking to five minutes. And the motion was laid upon the table.

The Convention then adjourned.

FRIDAY, (52d day) August 9.

The Convention met pursuant to adjournment and was called to order by the PRESIDENT.

Prayer by the Rev. Mr. SANFORD.

REMONSTRANCE.

By the PRESIDENT: of the Mayor, Recorder and Aldermen of the city of Detroit, against the incorporation of a provision in the constitution, prohibiting the Legislature from giving to any city or village the power of granting licenses for the sale of spirituous liquors, &c. Referred to the committee on the legislative department.

MOTIONS AND RESOLUTIONS.

Mr. J. D. PIERCE moved to recommit the article entitled "Judicial Department" [No. 28] to a committee of one, with the following instructions:

Strike out of section 1 the following words: "As many district justices' courts in each organized county as the supervisors thereof shall, in pursuance of law, establish judicial districts therein, not exceeding the number of representative districts."

Amend section 17 by striking out in line 3, these words: "They shall have such criminal and civil jurisdiction," and insert as follows: "They shall have civil jurisdiction to the amount of three hundred dollars; and concurrent jurisdiction to the amount of five hundred dollars, and such criminal jurisdiction."

Mr. CHURCH moved to lay the motion and article upon the table. He made the motion to test the propriety of moving to recommit that article at this stage of the business of the Convention.

The question upon laying on the table was then taken by yeas and nays, and resulted yeas 22, nays 44.

Upon Mr. PIERCE's proposition a division was had, and the motion to recommit prevailed—yeas 43, nays 25.

The instructions proposed being under consideration,

Mr. WALKER said that he desired to amend the instructions presented by the gentleman from Calhoun, (Mr. J. D. PIERCE.) He proposed to amend by adding this: To strike out the 4th section and insert in lieu, "The supreme court shall hold at least one term annually in each judicial circuit, at such time and place as may be designated by said court; and the Legislature may provide for the holding of two terms in each or either of the said circuits in each and every year."

Very good reasons he believed might be urged for the adoption of this amendment. He was aware that it had not been the practice heretofore to have terms of the Supreme Court held, except in very distant parts of the State. Such was not the operation of the same system which the majority had decided upon in the New England States. As well as he recollected, the court sat in nearly every county in those States. He knew that the Supreme Court

held at least one term in every county in Vermont. So it was, he believed, in Massachusetts, Connecticut and other States. There were advantages to be derived from that system which would be apparent to any one who gave the matter a moment's reflection. Heretofore we had but four points at which a term of the Supreme Court was held. What was the effect? To give the greater part of the legal business to the lawyers residing at those points, and to make the expense of litigation to citizens of other counties extremely onerous. Macomb county was in the district in which the Supreme Court was held at Detroit, and whenever any business went up from that county, the attorney would be obliged to spend four months, perhaps, in Detroit, to attend to the business, or transfer it to some resident attorney, so that the result was either to neglect his own business at home, or transfer the business with its profits to some Detroit lawyer.

He did not know that his plan would be compatible with the system intended to be adopted here, without an increase in the number of judges; but he knew, at all events, that it would be acceptable to the people at large. With an independent judiciary, there would be no difficulty whatever in extending these advantages to the several counties. With the circuit system, there might be a difficulty, unless the force upon the Supreme bench was increased. He conceived there were weighty reasons in favor of his proposition, and he hoped it would be soundly considered in all its bearings. He had not offered it for the purpose of defeating the bill in any shape, but would have offered it as an amendment to the independent system reported by the gentleman from Oakland, [Mr. HANSCOM,] if that had been adopted.

Mr. McCLELLAND remarked, that by turning to section four of the article, it would be seen that the Legislature had full power over this subject, except that they could not reduce the number of terms to be held in the State below the number specified. There was no prohibitory clause in the article—the Legislature could do as they pleased. He believed if we imposed such duties on the judges as the gentleman proposed, we might as well give up both systems. If the judges went

into one county, they must go into all. If they went into the large counties, they must go into the small. The system had been tried in several States, and universally failed, except where the judges had but very little duty to perform on circuit.

Mr. CHURCH—I move to further amend the instructions. With the permission of the Chair I will read my proposition before sending it up. I move to amend by striking out section two, and inserting instead of it, one which shall contain the following provisions:

“1. The Supreme Court shall consist of four judges, two of whom shall be elected by the qualified electors of the State, and hold office six years. The other two judges of said court shall be the two circuit judges having the shortest term of service.

“2. There shall be six circuit court judges, elected by the qualified electors of each circuit, to hold office for six years; such judges to be classified so that two of them will be elected biennially.

“3. At the first election under this constitution, there shall be elected four Supreme Court judges, two of whom shall hold office only two years.”

I propose to make a remark or two on these instructions.

[The amendment was then sent to the chair and read.]

The PRESIDENT—Is the Chair to understand the proposition as an amendment to the instructions offered by the gentleman from Macomb, [Mr. WALKER?]

Mr. CHURCH—Yes sir. I have proposed these instructions to the committee for these reasons; to which I ask for a minute, the attention of the Convention. It is evident, although the last three or four votes taken on this subject may be construed differently, that as between the independent Supreme Court and the Circuit Court system, the Convention is nearly equally divided. It must be evident to gentlemen of this Convention that whichever of these systems be adopted, it can command but a very small majority on this floor; and it will leave a large minority dissatisfied with the action of this body on the most important subject that has been committed to it. It has been remarked before, that this constitution which we are framing will present “porcupine quills” enough to insure it a warm reception; and

if it go forth with the failure of the attainment of reform, in one of the most important particulars, stamped upon its face, the danger of its defeat will be greatly increased. I have listened to the discussion upon the merits of each system; and if there be any sincerity in the remarks made here by the friends of both systems—if they meant what they said when they argued upon this subject—the proposition ought to command the support of gentlemen of both sides.

I propose to this Convention, sir, a plan by which the acknowledged merits of both systems can be secured, and by which the evils which the opponents of either system contended were inseparably attached to them, would be avoided. What are its provisions? It provides, in the first place, for a Supreme Court, and for the creation of a number of circuit judges. How is the Supreme Court to be composed? It is composed of four members, two of whom shall be permanent members of the court, elected for the term of six years, by the people at large. Therefore, sitting in the Supreme Court for that long period, they must become learned judges and able lawyers. With whom are they to be associated? With two circuit judges, who will come up from the circuit bench and sit with them; men who have been qualified for that position by four years' service as circuit judges. Because, it will be perceived, that this proposition provides for the creation of six circuit judges, and such a classification of them that there will be an election for two of them every two years. Then, when a man sits in a circuit four years, and has but two years to serve, he will go up to the Supreme Court and sit there. You will then have two men sitting there, prepared by four years' service on the circuit bench, and after that they will go away, making place for the next two, in the same manner.

I speak now with reference to the Supreme Court especially. You will have a court with all the advantages of this circuit system. You will have men sitting there for the patient investigation of all matters of law, and two men sitting with them, after four years' service on the circuit, as I have said before—practical men, experienced in matters of law and fact.

This is a modification of the New York

system, applied to this State with reference to the amount of business and its extent. I ask of the Convention to give it an impartial consideration, and to endeavor to keep it separated from any connection with the two parties arrayed in battle here, and without reference to the leaders of these parties, seeking their own aggrandizement. I ask of them to put themselves above all party considerations, and acknowledge no leaders in this matter, but to have an "eye single" to the best interests of the State. I think that, upon the whole, gentlemen will see that the system embodied in this proposition is the one most calculated to attain the best interests of the people. I ask that the plan be sent to a committee, and I have no doubt but that the sober second thought of the Convention will approve of it.

A slight conversational discussion then ensued; after which,

On motion of Mr. CHANDLER, the previous question was ordered.

The question was then taken by yeas and nays upon the amendment offered by Mr. CHURCH, and was lost—yeas 31, nays 41.

Mr. WALKER's amendment was then rejected—yeas 29, nays 43.

And the question recurring on the proposition of Mr. J. D. PIERCE, a division of the question was had.

The first branch of the instructions was agreed to—yeas 50, nays 22.

And the remainder of the proposed instructions were also agreed to—yeas 44, nays 27.

The PRESIDENT, under the resolution, referred the article to Mr. J. D. PIERCE, who forthwith reported the same back to the Convention, amended agreeably to the same.

Mr. McCLELLAND called up his motion to reconsider the vote by which the resolution limiting the time of speaking to five minutes was adopted.

And the question being upon reconsideration, the yeas and nays were had, and the motion prevailed—yeas 36, nays 32.

Mr. ROBERTS moved to indefinitely postpone the resolution; but the motion did not prevail.

On motion of Mr. EATON, the resolution was amended by striking out "by leave of the Convention or committee."

Mr. VAN VALKENBURGH moved to strike out "five" and insert "ten."

A division of the question was had, and the Convention refused to strike out.

The question being upon the adoption of the resolution as amended, the same was agreed to by a two-thirds vote, as follows:

YEAS—Messrs. P. R. Adams, W. Adams, Alvord, Anderson, Arzeno, Axford, Beardsley, Britain, Ammon Brown, Asahel Brown, Bush, Carr, Chandler, Chapel, Choate, Church, Comstock, Conner, Cornell, Crouse, Danforth, Daniels, Eaton, Fralick, Gale, Gibson, Green, Hanscom, Hart, Harvey, Hascall, Kingsley, Kinne, Leach, Lee, McClelland, Mosher, Mowry, Newberry, J. D. Pierce, N. Pierce, Prevost, Rix Robinson, Skinner, Soule, Town, Walker, Webster, White, Whipple, Williams—51.

NAYS—Messrs. J. Bartow, Beeson, Burns, J. Clark, Gardiner, Lovell, McLeod, Morrison, Roberts, Robertson, Storey, Van Valkenburgh, Wait, Whittemore, President—15.

The PRESIDENT called Mr. BRITAIN to the chair.

The article entitled "Judicial Department" was read a third time by its title.

The CHAIR then stated the question as being upon the passage of the article.

Mr. GOODWIN said he did not know if he should be able to state so briefly the reasons which would induce him to vote against the passage of the article, as to confine his remarks within the space allotted him. But he desired to advert to some matters connected with the subject, which had not been previously adverted to. In regard to his general views, he had already presented them in the committee of the whole. There were some other propositions, however, to which he desired to call attention, and which seemed to him to afford good reasons why the article should not pass. The first one was in relation to the mode of electing the judges. Section 6 provided that the State should be divided into eight judicial districts, one judge to be elected in each district, and four of the judges so elected was to constitute a quorum of the Supreme Court. So that in fact the judges of the court of last resort would be elected in these separate districts. He considered that the judges of that court should be elected by the peo-

ple at large. He conscientiously believed that by electing the judges in that manner, the interests of the people and the administration of justice would be best subserved. He had previously presented his views in relation to the judicial system that he thought ought to be adopted. However, the Convention had seen fit to overrule him. Where a judge was the judge merely of a district, the plan of election provided in the article would be right. But by the judicial system which the Convention adopted, the judges were not only the judges of the districts in which they sat, but were also judges for the State at large—they forming the court of last resort. To his mind, then, the propriety of their being elected by the people at large was perfectly obvious. How would it be if we were to say the Attorney General or State Treasurer should be elected by a district? Gentlemen no doubt would say it was wrong. The same reasoning therefore applies to the election of judges by districts. He might dwell upon the local influence which would result from this plan; the influence upon the judges when their terms of office terminated or were about to terminate, or when about being elected. He would pass however from that, without entering into detail.

There was another matter that struck him. Circuit Courts were required to hold four terms in every county containing 10,000 inhabitants. He had frequently urged that where there was an amount of judicial business to be done, there should be a sufficient number of terms holden to transact it. But would eight judges be sufficient to do all that business, and to sit four terms a year in counties so situated? It appeared to him that eight would not be enough.

Again, the second section of the article provided that the circuit judges (eight) should constitute the Supreme Court, four to constitute a quorum, and the concurrence of three necessary to a final decision. If the entire number sat, it would indeed become a very cumbrous court. Besides, the rendition of decisions would be slow, for the reason that the judges being elected by districts, the greater part of their time would be occupied in their district business, so that their attention would in part be distracted from the Supreme Court.

business to that of their districts. Four judges sitting in the Supreme Court constituted a quorum, the other four judges being on circuit. Well, these four judges in the Supreme Court went on and made their decision, while the rest of the judges were away. At the succeeding term of the Supreme Court we would have some of the judges who had been on circuit during the previous term, and one or two perhaps of those who sat that term. This it appeared to him would have a bad effect in regard to satisfaction in the decisions of the Supreme Court. Suppose the four judges who sat there should differ in regard to a question similar to one which had been decided at a previous term; what would be the consequences? or on some principle of law, and so on? We would have different batches of judges, and our decisions would be constantly fluctuating. This was a result which might occur from the manner in which the court was constituted by the provisions of this article. It seemed to him to be a system under which we could not have that certain and stable adjudication which was to be desired. It was a system, too, that in his judgment weakened the responsibility which the judges ought to feel. The responsibility was thrown upon a number, so that individually there was little. A judge might say "he did not sit in the Supreme Court but one term in three or four, and was not responsible for its decisions—his opinion on this or that question was so and so, and was not responsible for the decision given on the same question at another term of the court."

Occasions might occur, and had occurred in our Supreme Court as at present constituted, which would justify the insertion of the provision in relation to the judges giving their decisions in writing. He would ask gentlemen, could a system such as this contemplated, secure that feeling of responsibility which the judges of the court of last resort should feel? On the contrary, he did not think it would; nor did he think it would give to the decisions of our highest legal tribunal that general character for stability which they should possess; nor would it secure to the extent which it ought the confidence of the people in the adjudication of our Supreme Court.

There was another thing which he would advert to in conjunction with what he had before said in relation to the improbability of the court being able to discharge all the business devolving upon it, and it was a matter which would have the effect of lengthening the duration of the terms. He alluded to the chancery business, which would necessarily impose very onerous duties upon the judges, in addition to their other duties. The third section of the article said that the Supreme Court should have the power to issue writs of error, habeas corpus, mandamus, &c., and amongst others, injunction. So that there was a certain portion of chancery jurisdiction conferred upon this court. This he considered a strong objection to the article as it stood. He supposed the Convention had not designed to give this power, but the article as it stood certainly conferred upon the Supreme Court an original chancery jurisdiction in a certain class of cases. An injunction was a writ used in chancery practice, and was always sued out on a bill of petition filed in chancery, and not otherwise. This then was an original chancery jurisdiction; so that the court in Detroit could send its injunction to Berrien, Genesee, Mackinaw—in fact, all over the State. He did not suppose that this was a provision desired by the people, and was another reason why he should vote against the article. What he said on this occasion was presented in the performance of his duty. He had stated in a spirit of fairness what he considered important objections to the system contemplated, and for these reasons, in addition to those presented on a former day, he should vote against the passage of this article.

On motion of Mr. BAGG, a call of the Convention was ordered, and Messrs. McLEOD and ROBERTS were found absent without leave.

On motion of Mr. HANSCOM, all further proceedings under the call were dispensed with.

And the question being, shall the article entitled "Judicial Department" now pass? the yeas and nays were had, and the vote was as follows:

YEAS—Messrs. P. R. Adams, W. Adams, Anderson, Arzeno, Barnard, H. Bartow, J. Bartow, Beardsley, Beeson, Britain, Ammon Brown, Asahel Brown, Burns,

Bush, Butterfield, Choate, Conner, Cornell, Danforth, Daniels, Eaton, Gale, Gardiner, Green, Hascall, Kingsley, Kinne, McClelland, Mosher, J. D. Pierce, N. Pierce, Prevost, Skinner, Soule, Storey, Sturgis, Town, Wait, Warden, Whipple—40.

NAYS—Messrs. Alvord, Axford, Bagg, Carr, Chandler, Chapel, Church, J. Clark, Comstock, Crouse, Fralick, Gibson, Hanscom, Hart, Harvey, Lee, Lovell, McLeod, Morrison, Mowry, Newberry, Robertson, Rix Robinson, Van Valkenburgh, Walker, Webster, White, Whittemore, Williams, President—30.

So the article was passed, and under the rule referred to the committee on arrangement and phraseology.

The Convention resumed the consideration of the article entitled Miscellaneous Provisions.

The question being upon the motion of Mr. FRALICK, to strike out section 2,

Mr. WILLIAMS observed that the motives for introducing the section had been entirely perverted. The proposition was in the way of a remedy for a class of cases which had occupied much of the time of the Legislature, and had created a great deal of ill feeling. One gentleman had remarked, on a previous day, that this had been a *vexata questio* for the last twenty years in the Legislatures of this State. Another gentleman said he had been a member of the Legislature for six years, and that each year it was a matter of much trouble and expense to the Legislature. Inasmuch as the Legislature had not determined this matter, it was proposed to set it at rest by constitutional provision; and to avoid all trouble, the provision was here introduced. This provision was not intended to enable one man to tax others, as had been intimated; it merely proposed that the owners of lands overflowed by the erection of mills, should receive compensation for the damage done. And how were these damages to be ascertained and assessed? By the very same description of tribunal which we had appointed to assess damages in other cases—by a jury of freeholders. During his absence from home, some years since, a road was made over a part of his property, and was of very little benefit to him and those he represented; but it did him very little damage. He was

decidedly in favor of securing private property, and he wanted this matter to be definitely settled, for it had long enough been a source of dissension and ill-feeling. But gentlemen had spoken very pathetically about taking other men's property. Why, our laws were full of encroachments on private rights; our constitution was founded on the principle that every man gave up a portion of his private rights for the sake of securing the remainder. In regard to rail roads, plank roads, streets in cities, &c., private property was thus taken, because it was for the benefit of the whole. In the same way the law allowed the authorities of a city to tear down buildings in case of fire, for the same reason. And, again, a man could not prosecute a nuisance upon his own property. In regard to the interest on money, did we not there encroach on a man's property? He had not the right to do with it as he pleased. Even in his own business the law encroached upon his private rights. He could not use his mill as he pleased. The law compelled him to take so much toll, and no more. Why were we forming a constitution? In part, to prevent the executive and legislative departments from encroaching upon private rights to an extent greater than the public interest demanded. If necessary, he could go on and point out many other cases.

Mr. McCLELLAND understood the gentleman's argument to be this: that because we had already encroached upon private rights, therefore it was proper we should go a little further. That he understood to be the sum and substance of the gentleman's argument here. It was true that the Legislature of this State, and of other States, encroached a little too much upon private rights. Allusion had been made to cities. He had instances in his mind where encroachments on private rights had been very injurious to the people. He knew of cases in his own city where, by permitting these encroachments to be made, very great injustice had been done, in the opinion of many of the most respectable citizens. He would ask if it were right to base a proposition of the kind on the mere argument that, because we had done so before, we would be justified in encroaching further? There might be great injury done to individuals by adopt-

ing the rule sought to be established by the gentleman from St. Joseph, [Mr. WILLIAMS.] He was willing to go with the gentleman in putting some restraint on the Legislature. If we had any thing to do, it was to protect the people of this State against the encroachment of others, and even against the encroachments of the people themselves.

Mr. WHIPPLE said that there was a little difference of opinion existing in relation to the subject of taking private property for certain uses. The Supreme Court of the State of Massachusetts held that an act of the Legislature authorizing persons to take property for the use and purpose contemplated in this article, was a constitutional and legal enactment. It was not his purpose to question the authority of that case, nor to say whether it was right or wrong. But he would advise the Convention that there are such decisions; and no one knew that better than the President of this Convention, [Mr. GOODWIN.]

There were a great many difficulties surrounding this question, and he was exceedingly anxious we should settle it now. If this provision would allow private property to be taken for private use, he was opposed to it—if for public use, he was in favor of it. Those who had watched the proceedings in our courts were aware of the amount of litigation which grew out of this matter; it had become, in fact, a complete nuisance, and had crushed many an individual. In determining this matter, we had to recollect that the water power of the State was used to but a very limited extent. We should look forward to the period when it would be used for the impelling of machinery, for the manufacture of calicos, woolens, and for other purposes.

Mr. CHAPEL remarked that the friends of the proposition merely asked that something might be done here which would mark out the means by which their rights, or rather the rights in dispute, might be secured, without doing injustice to the other party.

[Mr. C. then took ground that as plank road and rail road companies were enabled by legislative enactment to enter upon property and take it for road purposes, the same reasoning applied with equal propri-

ety to the taking of lands, as specified in this section. He contended that mills were erected for the benefit of the surrounding country.]

Mr. N. PIERCE did not think the reasoning on this matter to be proper. He should say that in the county in which he resided, more sickness and deaths had resulted from the erection of mill ponds than from any other cause which he knew. There had been always a great amount of trouble and litigation about them. Could not the Legislature be left to say that a man should not make a mill pond larger than ten acres? It was no blessing to have a mill pond of one hundred acres close by a man's residence. He knew that those who lived on the sides of these ponds were very much distressed by ague and fevers, no doubt generated by the standing water. In fact, in nine cases out of ten, there was no necessity for having the water in these ponds in this way.

Mr. COMSTOCK observed that the objections of some gentlemen were based upon the question in relation to taking private property for private use; at present the objection was on account of these mill ponds being a nuisance. If they were nuisances, did not the gentleman from Calhoun [Mr. N. PIERCE] know that the Legislature had provided means for their being abated? He entirely agreed with the gentleman from St. Joseph, [Mr. WILLIAMS,] that something should be fixed here to put an end to the litigation which was constantly arising from this matter. He viewed mills in the same light as rail roads—great public benefits, which were entitled to legislative protection.

Mr. BUTTERFIELD said this provision was introduced in order that parties connected with water rights might understand their privileges. He did not know that this provision was for the protection of millers, in particular. He knew that very many men in his own county, who were not millers, but whose lands had been overflowed, would vote for this section. This subject had been a most fruitful source of one of the most troublesome and expensive species of litigation that ever came before our courts of justice. This provision was intended to protect the poor man in his rights. On but too many occasions were the poor men driven out of court when

seeking for their rights, by reason of the costs arising from these suits. It only asked that these men should have their rights, but through a different channel from that now existing. It said that property should be assessed by a jury of twelve men—the same tribunal which had control over cases of a similar character. Gentlemen might say, let them go to the courts of justice. But then we had had experience in regard to that remedy. What did going to the courts of justice, to the court of last resort, amount to? To an utter rejection of claims for justice, so far as the poor clients were concerned.

In regard to the inviolability of private property, referred to by gentlemen, every argument that could be adduced in relation to the construction of rail roads, &c., applied with equal force as to the erection of mill dams. Let gentlemen just consider in what condition the State would be, if its water powers were not improved. There had been enough of money expended in this State upon the subject to have enriched every miller in the State. It was not for their benefit that the provision was introduced, neither was it for his. He had not a cent's worth depending upon this matter, except as a citizen of the State; in truth, he had already suffered to depletion by it.

On motion, the Convention adjourned.

Afternoon Session.

The PRESIDENT called the Convention to order.

The unfinished business of the morning was resumed, and the question being on striking out section 2 of the article "Miscellaneous Provisions,"

Mr. CORNELL said he did not wish the question taken until he had "defined his position." From observation and reflection, he thought that such a law, embracing the provision contemplated, should be made, but not incorporated in the constitution. A law compelling those who took the property of others, to pay for it, was simple justice; but the principle which allowed one individual to appropriate the property of another to his own use, was wrong. It had been said by gentlemen that, when necessary, private property

should be taken for public use; but this section went further—it allowed it to be taken for private use. Now, was it right, was it proper, that anything of the kind should be placed in the constitution? The section cured some of the defects, some of the difficulties, under which they labored at present; but it was liable to serious objections. Suppose an individual should come from the State of New York, purchase forty acres of land and settle down, leaving his family behind. After returning for his family and getting back to his new home, he finds fifteen or twenty acres flowed. Now, what would be the consequence? He can only get payment for the land flowed, when, perhaps, he might not desire to have a smaller farm; or he may be unable to sell the remaining small portion to any one, and thus be crippled in his business. Such cases might occur.

Mr. VAN VALKENBURGH hoped the motion would prevail. He had looked into the manual and found the advocates of the section all millers; but they said it was intended only for the public good, and not for the millers.

Mr. DANFORTH (interposing)—Did I say so?

Mr. VAN VALKENBURGH—No sir; but others had. It appeared to him improper to throw the rights of others into the hands of any individual. A member had remarked that he had been badly bled; but, if this section remained, others would be worse bled. He had been told of an instance to-day of a poor Irishman who had been ruined by having his land flowed. His children had all died of chill fevers produced by the damming up of the water, and finally, the man himself, to save his life, was compelled to leave, unable to dispose of his land. It appeared to him, if the section was adopted, that no one would be safe. The gentleman from Ingham had been honest in his remarks, in saying they first consulted their own interests when locating a mill pond.

Mr. ALVORD moved the previous question, and the motion to strike out prevailed, by yeas and nays, as follows:

YEAS—Messrs. P. R. Adams, Alvord, Anderson, Arzeno, Axford, Bagg, Barnard, H. Bartow, J. Bartow, Beardsley, Beeson, Ammon Brown, Asahel Brown, Burns, Carr, Chandler, Choate, Church, Conner,

Cornell, Crouse, Daniels, Eaton, Fralick, Gale, Gibson, Green, Hanscom, Harvey, Kingsley, Kinne, Leach, Lee, Lovell, McClelland, Mosher, Mowry, Newberry, N. Pierce, Prevost, Roberts, Rix Robinson, Skinner, Soule, Storey, Sturgis, Town, Van Valkenburgh, Wait, Walker, Warden, Webster, Whittemore, President—54.

YAYS—Messrs. W. Adams, Britain, Butterfield, Chapel, Comstock, Danforth, Gardiner, Hart, Hascall, Morrison, Robertson, White, Williams—13.

Mr. WALKER offered the following, to stand in lieu of the section stricken out:

"Sec. 2. The Legislature shall provide by law that lands may be flowed, or water diverted for milling and manufacturing purposes, when the public good will be promoted thereby, and shall provide the manner in which the damages to individuals shall be assessed and paid."

Mr. W. said he did not wish to argue the question, as he had performed that duty on yesterday. He had voted for striking out the section, because it gave the right indiscriminately to enter, without determining whether it was for the public good.

Mr. ALVORD moved the previous question; and the same being ordered, the question was put on adopting the substitute of Mr. WALKER, and lost.

Mr. BUTTERFIELD offered the following, to stand as an additional section to the article:

"Sec. 8. The Legislature shall have power, after the year 1855, to combine or abolish any of the State offices provided for in this constitution."

Mr. B. said efforts had been made in the Convention to combine various offices; but it was thought impracticable at present. If it should appear politic to do so after the year 1855, this provision would enable the Legislature to accomplish it. It certainly could do no harm—being only a matter of prospective economy.

Mr. ROBERTSON moved to amend the proposed section by adding: "or abolish any other provision of this constitution." He then moved the previous question, and the same being ordered, the vote was taken on the amendment and lost.

The proposition of Mr. BUTTERFIELD was then rejected.

Mr. WHITTEMORE moved to strike out section six of the article.

Mr. MORRISON moved the previous question; which was demanded, and the main question ordered to be put.

The motion to strike out prevailed—yeas 42, nays 26.

Mr. WILLIAMS offered the following new section, to stand as section five:

"The waters of this State, navigable in fact, shall be common highways, and forever free to the inhabitants of this State and the United States."

Mr. W. said he could conceive of no objection that could be raised against this proposition; it certainly was against millers. He was opposed to their damming up navigable streams; impeding their free navigation. The object of the section was to put an end to law suits growing out of the customs and laws of this State, by conflicting with the Ordinance.

Mr. J. BARTOW was happy to meet the gentleman [Mr. WILLIAMS] on some ground. He would say to him that our laws did not destroy the Ordinance, but merely threw it in doubt.

Mr. N. PIERCE said he would be glad to hear, if the proposition were adopted, what effect it would have where locks have been up?

Mr. CHAPEL—I will inform the gentleman that it will have the effect of making the water run over them.

Mr. CHURCH suggested the propriety of striking out the words "in fact."

Mr. N. PIERCE—That will not obviate the difficulty. What are navigable waters?

Mr. WALKER—I looked into the laws of the United States on yesterday, and the words used in the Statute are the same as in the proposition. It expressly provides that where streams have been meandered, and not found navigable, the adjacent proprietors shall be tenants in common of the bed of the stream.

The vote on the proposition of Mr. WILLIAMS' was then taken by yeas and nays, and resulted as follows:

YEAS—Messrs. P. R. Adams, Arzeno, Bagg, H. Bartow, J. Bartow, Asahel Brown, Butterfield, Carr, Chandler, Chapel, Comstock, Church, Daniels, Gardiner, Hanscom, Kinne, Morrison, Mosher, Mowry, Newberry, Robertson, Sturgis, Town, Van

Valkenburgh, Walker, Webster, White, Whittemore, Williams—29.

NAYS—Messrs. W. Adams, Alvord, Anderson, Axford, Barnard, Beardsley, Beeson, Britain, Ammon Brown, Burns, Bush, Choate, Conner, Cornell, Crouse, Danforth, Eaton, Fralick, Gale, Gibson, Green, Hart, Harvey, Hascall, Kingsley, Lee, Lovell, McClelland, J. D. Pierce, N. Pierce, Prevost, Rix Robinson, Skinner, Soule, Storey, Wait, Warden, President—37.

Mr. CONNER offered the following as additional sections to the article:

"Sec. —. An accurate statement of the receipts and expenditures of the public moneys shall be attached to, and published with, the laws at every regular session of the Legislature.

"Sec. —. The Legislature shall provide for the speedy publication of all statute laws of a public nature, and of such judicial decisions as it may deem expedient. All laws and judicial decisions shall be free for publication by any person."

Both propositions were adopted.

Mr. DANIELS offered the following, to stand as a new section:

"The Legislature shall, as soon as practicable, establish a house of correction for juvenile and female offenders."

Mr. DANFORTH—The Legislature have the power now.

Mr. J. BARTOW—I rose for the purpose of making the same statement.

Mr. CHURCH—We have been unfortunate in one institution; and as the Legislature already have the power, we should not force the matter on them.

Mr. DANIELS remarked that it only required the Legislature to do it as soon as practicable, and he wished to present the views of the Convention to the Legislature. From observation, he was convinced that such an institution was necessary.

The motion was lost; yeas 29, nays 35.

Mr. HASCALL offered the following to stand as a separate section:

"The Legislature shall prescribe by law the manner in which the State printing shall be executed, and the accounts rendered therefor; and shall prohibit all charges for constructive labor."

Mr. H. said—Mr. President, we are here to correct abuses. Wherever important evils have developed themselves under our former system, we are expected to apply

the remedy. The proposition which I have offered is calculated to bring about an important reform in a matter upon which there is much public feeling. That there have been most serious abuses connected with our system of State printing, under both whig and democratic administrations, I have yet to hear denied. A fortune has been realized by those who have been enabled to procure it for a succession of years, and the avidity with which it is sought after, is the best proof to me that the station is a desirable one. Men are not so anxious to lose money, as to bind themselves to a contract where this must be the inevitable result. Yet we have seen experienced, practical printers, bid in the State work at half the usual prices of printing, and make money at it. I ask any sensible man, in what manner must they, of necessity, execute the work, in order to make money as they do, and pay the high price for labor which they have been accustomed to do? All will answer, it can only be done by outraging the rules of correct taste; by charging the State with constructive labor never performed; and by taking advantage of the licenses of the craft to an extent never contemplated in any fair and honorable transaction.

Sir, from circumstances which have transpired, this movement on my part may be regarded as the result of personal ill feeling towards the present State Printer. Nothing can be more unfounded. I entertain feelings the most respectful towards that individual, and would extend to him any personal favor consistent with duty, in my power. But in this movement I am influenced solely with reference to the public interests and a sense of duty. My practical experience in the business which I follow, has enabled me to detect serious abuses connected with the public printing. These I have exposed and have endeavored to remedy.

I have acted conscientiously, and I fear no consequences personal to myself. However much others may shrink from coming in contact with an interested public press, when that press seeks to work an injury to the State, I shall maintain my position, regardless of fear or favor.

The proposition here presented is calculated to obviate the objections which certain timid gentlemen urged to that first of-

ferred by me, but is intended in the end to accomplish the same result. My former measure was thought to go too much into detail for a constitutional provision; but it would be very useful in a law, and certain gentlemen would willingly see it in that shape. This proposition will accommodate them. It is general in its nature, and leaves all to the Legislature, only making it imperative on that body to make some special enactment in regard to the abuses which are sought to be corrected.

I do not wish to go over the discussions which have already been had on this subject. Our time is limited, and I do not wish to trespass on it a moment beyond the necessity of the case. The existence of circumstances which call for the movement here made, is agreed to by all. That some action should be had in this body, on this subject, is evident to all who have any interest in the welfare of the State. The Legislature has heretofore had control of the matter, but what has it done? What will it do hereafter, unless compelled by the constitution? Let the past answer. I am endeavoring to carry out what I deem to be the wishes of the people. I wish that they should know the friends and enemies of the proposed measure, and shall therefore ask for the yeas and nays.

Mr. ROBERTS presented the following as an amendment to the proposition of the gentleman from Kalamazoo, [Mr. HASCALL:]

"And the Legislature shall appoint their own State printer."

Mr. R. said—I wish to be allowed the privilege of sending up this amendment to the gentleman's proposition. I do not offer it with the anticipation that it will prove acceptable to this Convention, from the fact that I may, as a practical printer, and one of long experience in the State printing of this State, have presented my views and opinions in relation to the subject on a former occasion. I offer it in order to have an opportunity of recording my vote where it may be read hereafter, and for the purpose, sir, of showing to the people, when it will be too late to rectify the errors of this Convention, that your State printer, fastened down to particular prices for forty days' sessions, once in two years, and obliged to furnish his office here, and be here on the ground, cannot

perform the duties. My own proposition originally was that the State printer should be elected, or that his selection might be left to the Legislature, on the ground, sir, that the letting of the printing by contract had failed in every State in which it had been attempted, and also in the United States Congress. The further object which I have in offering it, is to show the fact which I now leave for the consideration of members: that no printer can afford to furnish all the materials and hands necessary to conduct the State printing for a forty days' session, once in two years, at the prices now being paid him—that he may charge such excessive prices as he pleases, for you cannot get your printing done elsewhere, because you are situated in an isolated spot; and we are in one that never can admit of its being done under any other circumstances than those, perhaps, the most oppressive that ever have been in any other State in the Union.

Mr. STOREY said the whole matter was provided for in the legislative article. (Mr. S. here read the section in that article relative to State printing.) All this humbug about *constructive* printing had been voted in, and voted out, and he trusted it would be voted down again.

Mr. HASCALL said he wished to provide against loose printing, and this would do it. They were here to correct abuses, and the charge for constructive printing was one. He asked the yeas and nays.

The amendment of Mr. ROBERTS was lost—yeas 10, nays 51.

Mr. STOREY merely wished to say that if the proposition were adopted, it would not save a penny. He hoped this Convention would not attempt to break down the established rules and customs of any craft.

After a short conversational discussion between several members,

Mr. LEACH moved the previous question on the proposition; and the same being ordered, it was adopted—yeas 56, nays 6.

Mr. SOULE offered the following, to stand as a separate section:

"The laws, public records, and the judicial and legislative written proceedings of the State shall be conducted, promulgated and preserved in the English language."

And the same was adopted.

Mr. CORNELL offered the following, as an additional section:

"The Governor, after 1856, may, in his discretion, assume the legislative and judicial departments of the government."

Mr. C. said the article seemed to be a kind of common sink, and he wished to give it a good bottom. He withdrew the proposition.

Mr. HART offered the following, to stand as a separate section:

"The Legislature shall provide that after the year 1854, all taxes, except upon property paying specific taxes, shall be levied and collected in the townships and counties."

Mr. ARZENO moved the previous question on the article; and the same was demanded, and the main question ordered to be now put.

The proposition of Mr. HART was then disagreed to—yeas 30, nays 32.

The article was ordered to a third reading.

Mr. J. D. PIERCE moved to adjourn.

Mr. CHAPEL moved a call of the House; but the call was not sustained.

On motion of Mr. HANSCOM, the Convention then adjourned.

SATURDAY, (53d day,) August 10.

The Convention was called to order by the PRESIDENT.

Prayer by Rev. Mr. SANFORD.

REPORTS.

Mr. STOREY, from the committee on salaries, reported

ARTICLE —.

Of Salaries.

Sec. 1. The Governor shall receive an annual salary of one thousand dollars; the Judges of the Circuit Courts shall each receive an annual salary of fifteen hundred dollars; the State Treasurer shall receive an annual salary of one thousand dollars; the Auditor General shall receive an annual salary of one thousand dollars; the Superintendent of Public Instruction shall receive an annual salary of one thousand dollars; the Secretary of State shall receive an annual salary of eight hundred dollars; the Commissioner of the State Land Office shall receive an annual salary of eight hundred dollars; the Attorney

General shall receive an annual salary of eight hundred dollars.

Which was read the first and second time by its title, referred to the committee of the whole, and placed on the general order.

Mr. McCLELLAND, from the committee on the legislative department, to whom was referred the petition of George Goodman, W. H. McComber, and 147 others, praying the incorporation by the Convention of a clause in the constitution prohibiting the collection of all debts, of a less amount than one hundred dollars, if contracted after the adoption of the constitution, reported the same back to the Convention, recommending its reference to the committee on the judicial department, and asked to be discharged from its further consideration.

The committee was so discharged, and,

On motion of Mr. ROBERTSON, the consideration of the petition was indefinitely postponed.

Mr. McCLELLAND, from the same committee, to whom was referred the remonstrance of the Mayor, Recorder and Aldermen of the city of Detroit, against the incorporation of a provision in the constitution, prohibiting the Legislature from giving to any city or village the power of granting licenses for the sale of spirituous liquors, &c., reported the same back, and asked to be discharged from its further consideration.

The committee was so discharged, and the remonstrance laid upon the table.

MOTIONS AND RESOLUTIONS.

Mr. HANSCOM moved that the printing of the daily journals of the Convention be dispensed with for the remainder of the session.

Mr. CHURCH—We take up to-day the article "Upper Peninsula." Amendments will be made to it, and we shall not know on Monday morning how the article stands.

Mr. HANSCOM—By dispensing with the printing of the journals, we shall save three days of the time of the Convention.

Mr. BRITAIN—Has the gentleman formed his opinion after a consultation with the printers?

Mr. HANSCOM—I have formed my opinion from a knowledge of the facts.

We do not get our journals now until the middle of the day.

Mr. BRITAIN—I think that it should not be carried into effect without consultation with the printers.

Mr. N. PIERCE—I think we cannot get along without the journals. I know that I am so bungling that I cannot, without it, tell what took place yesterday.

Mr. McCLELLAND—Upon consultation with the members, it was thought to be the best plan to dispense with the printing of the journals at present. I do not know that it is the practice to have the journals printed for the use of the members each morning, in any State of the Union, except this. It is not done in Congress. They never have a journal before them, nor do they see the journals until weeks after, frequently not until the end of the session. In the present case the clerk will read the journal, slowly of course. Any errors can be corrected, and it will save expense and a great deal of time.

The bills and articles are now in the hands of the committee on phraseology. When they make a change it must be printed, and the force of the printing office is not sufficient to print the articles and the journals, and enable us to adjourn by Thursday. Again, let us look at the Convention of 1835. The report was made in the afternoon—the constitution was engrossed and sent up on the morning of the 24th, and the Convention then adjourned.

Mr. CHURCH—I understand that the matter is set up as soon as it leaves here, and that the delay is in the bindery; they are not folded and fit for distribution.

Mr. HANSCOM—I will withdraw the motion.

The article entitled “Miscellaneous Provisions,” coming up for a third reading,

Mr. LEACH moved to recommit to the committee on miscellaneous provisions, with instructions to insert the following to stand as a separate section:

“The property of all persons who by law are prohibited from voting on account of color, shall be exempt from taxation.

Mr. L. said—I do not propose to discuss the matter. This Convention has decided that people of color shall be prohibited from voting. I therefore hope that this amendment may be incorporated, as taxation and representation should go together.

No person should be taxed except he has a right to vote.

Mr. MORRISON moved to amend by striking out the words “on account of color.”

Mr. ROBERTSON—I think that it is an imposition. Other persons have not the right of voting; but all persons have their property protected by law. Persons under the age of 21, and women, have not the right of voting. I move that it be indefinitely postponed.

Mr. MORRISON—If we exempt persons of color, we should exempt every other class who cannot vote from taxation.

Mr. LEACH—We all know that women are represented by the other sex. Foreigners are in a short time entitled to vote; but as long as you deny the right of voting to a whole class, you should exempt their property.

Mr. CHURCH moved to amend by adding thereto, “also report the following as an additional section to the article, viz:

“To promote the early sale and settlement of the unappropriated public lands now held by the United States exempt from taxation, within this State, the Legislature is hereby authorized to take all necessary and proper steps to procure a cession of said lands to the State whenever they can be obtained on just and advantageous terms; and whatever sum, if any, shall be realized from the sales of the land so acquired, after repaying to the State the amount of all advances made on account of the purchase, management, sale, and settlement of the same, together with interest thereon, shall constitute a permanent fund for the benefit of education, and the support of such deaf, dumb, blind and insane persons as are unable to support themselves.”

Mr. C. said—I do this because when this article was before us previously, a motion was made by a delegate to strike it out, and the previous question was demanded by a delegate from Calhoun. I desire to say nothing on the subject. A friend of mine does, and I wish to give him an opportunity. I will, however, take occasion to say, that when a motion is made to strike out a section, to demand the previous question, without allowing time for

any explanation, is, in my view, exceedingly improper.

Mr. HANSCOM—I hope that we may take a direct vote upon the proposition of the gentleman from Genesee, [Mr. LEACH.]

Mr. J. D. PIERCE—I think it can do no harm to retain the section. It merely authorizes the Legislature to do so and so. Three quarters of the land is held by the United States; they claim the soil, and if that title can be extinguished upon favorable terms, it must be a vast benefit to the people of this State. I do not wish to discuss the matter, but I think it can do no harm.

Mr. J. BARTOW—I was aware that there was a lurking desire to insert in general terms, something which should be the ground-work of future legislation—to enable them to have a plausible reason for urging this land question, which will surely be a source of trouble and corruption to the State hereafter, if they succeed. I hope that the matter will be fully and finally settled to-day, for I believe that this Convention is decidedly averse to it. No good can come out of it. We do not want the land. It is got up by a few for speculative purposes.

The author was here a few days ago with his printed circulars. He was a prudent, cautious man; he laid his plans and went away. Here is the working of his plan, and it is as well understood as if the whole was spread in detail, and I shall oppose it on every stage of its proceedings. I hope the section will be stricken out.

Mr. N. PIERCE—I think the section should be stricken out. In a few years the lands may be distributed. The State has never had the handling of lands, but it has been a source of corruption and trouble.

Mr. COMSTOCK—I hope it will be stricken out. This Convention has decided against holding property of this kind. It may probably turn out well; but from every apparent indication it will be more likely to involve the State in ruin and disgrace. I hope, therefore, that it will be met in its incipient stages, and put down.

Mr. KINGSLEY was likewise opposed to it. It would merely supply an office for a few pet politicians. This tells the Legislature that they shall do it.

Mr. BRITAIN moved to amend the

foregoing, by inserting after the word "terms:"

"Not exceeding the average value of said lands to the United States, during the ten years next preceding the adoption of this constitution."

Mr. B. said—My object is to set the matter right before the Convention. The delegate from Calhoun thinks that the lands may soon be distributed. Would this State dare to receive them? Would the delegate from Calhoun sincerely wish it? The idea is that a large amount of money is to be paid for these lands. I do not so understand it. It has been found that all that the United States has received per year, for the last ten years, is \$48,000. What then is the value of the lands. Such a sum as would produce an interest of \$48,000 per year. The Legislature might get them on better terms, but that estimate would reduce them to but a few cents per acre. I do not pledge myself to vote for the proposition ultimately; but I do feel anxious to have the matter carefully considered, coming from the respectable source from which it does, and that we should not throw away blindfoldedly what may be of future advantage to the State.

The person spoken of as the author wants no office; he does not wish it; his compass is better to him than any office. He estimated what the lands had been worth to the United States, and that if we could get them at that rate, it would be like getting them for nothing. The sale of lands yearly, now, is \$100,000; if we had them, it would probably put into the treasury the first year \$50,000, clear of expenses. I want the proposition fairly understood.

Mr. J. D. PIERCE—The gentleman from Genesee should look at this point of view. Three-quarters of the wild lands are in the hands of the United States. The general government has already made a profit of \$10,000,000, over and above the expenses of sale, and the expense arising from the purchase of Indian titles; and the wild lands are still owned by the United States; and while so owned, they will not be settled for a number of years. It is for the interest of this State to promote the settlement of the wild lands within the State. We are entitled, by the compact of 1787, to these lands. Each one of the

original States became seized of their lands, upon the severance of the colonies from the British crown, and the new States came into the Union on the same footing as the old States, in all respects whatever. What harm can this do, or by what argument can this be termed a corruption fund?

Mr. BRITAIN's amendment was lost.

Mr. WALKER moved to amend the proposition of Mr. CHURCH, as follows:

Strike out in line five, after the word "after," the words "repaying to the State the amount of all advances made;" and insert "deducting the amount paid;" and insert at the end thereof, the following: "Nothing herein contained shall be construed to authorize the Legislature to pledge the payment of any sum or sums therefor, except out of the proceeds of the sale thereof."

Which was accepted by Mr. CHURCH.

Mr. WALKER said—That, I think, will obviate the danger of running the State into debt and trouble, beyond what the lands produce. I think, if the lands could be obtained on these terms, we might effect a speedy settlement of the State.

Mr. BARTOW—I would like to know if the gentleman from Macomb wants to run the State into debt?

Mr. WALKER—Undoubtedly not.

Mr. J. BARTOW—The friends of this measure do not want to produce it in its naked shape; but the effect will be to steep the State in debt up to the ears. They propose to contract a debt to the United States, pay the interest yearly, and the principal when they can; it is a miserable scheme. The interest must be paid yearly by direct taxation, the principal by the sale of the lands. Some time or other it will be a source of corruption—it will control legislation.

Mr. BRITAIN—Is the gentleman talking with reference to the amendment? He is laboring in the whole field.

Mr. J. BARTOW—I will labor in the whole field, and I can take any particular part of it and confute it.

The CHAIR read the amendment.

Mr. BRITAIN—Has the gentleman any objection to that amendment?

Mr. J. BARTOW—I have an objection to every part of it. The delegate from Calhoun [Mr. J. D. PIERCE] has had many

such questions to deal with. There has been no question, however ultra, however destitute of reason, or of common sense, that has not met with his approval.

The CHAIR said the gentleman from Genesee was out of order.

Mr. J. BARTOW—I protest against the whole movement. It will involve us deeply; make us meddle with matters that we have no business to touch. If they give us the lands, we will endeavor to make the best use of them; but the present method I consider a piece of utter absurdity.

Mr. BUSH—From the remarks of the gentleman from Genesee, I do not understand the proposition. I understood it to be this: that for the last ten years, the net proceeds of the lands of the State amounted to \$48,000; and that the proposition was this: that the Legislature should be authorized, if opportunity presented, to make a contract with Congress to take charge of the public lands in the State of Michigan, dispose of the lands for the U. S., pay them for a series of years the amount that they have been receiving per annum, and appropriate the balance in opening roads in the more remote portions of the State, where the lands lie; and that, after the series of years have expired, for which they have agreed to pay the yearly amount, the balance of the lands shall belong to the State of Michigan. The last amendment was, that no risks should be run; that the payments should be confined to the amount actually received from the lands; that no debt should be incurred, but that the balance should remain as a permanent fund.

If the evils really exist, as pictured forth by the gentleman from Genesee, I should be opposed to it; but I think that they only exist in the imagination of the gentleman.

Mr. WALKER said he offered his amendment to obviate the evils contemplated by the gentleman from Genesee.

Mr. FRALICK—I thought that we settled the question yesterday; I therefore move the previous question.

The amendment offered by Mr. CHURCH was lost.

Mr. N. PIERCE moved to amend the instructions proposed, as follows:

Also to report a separate section, as follows: "The Legislature shall provide that, after the year 1853, all taxes except upon

property paying specific taxes, shall be levied and collected in the respective townships and counties."

Mr. BUTTERFIELD wished to read an amendment containing a proposition that had not been presented to the consideration of the Convention: "That the Legislature should provide that in no case should more than seven per cent interest be allowed."

Mr. B. said he was aware that the opinion was generally entertained that money should be as free as any other article of merchandize; that there should be no uniform or legal rate of interest, in fact; but he thought that if members would give it due consideration, they would arrive at a different conclusion; for it must be evident that loans made, bearing exorbitant interest, could not be of any benefit to the borrower; and must tend in the end to embarrassment and loss; and he therefore wished the capital of the State directed from this channel and thrown into other directions. One man who invests ten thousand dollars in some legitimate channel of trade, who, with that capital, pursues some active employment, is worth more to the State than if he possessed one hundred thousand dollars, and let it out on bond and mortgage at ten per cent. If we allow that amount of interest to be drawn, we withdraw so much capital from the business of the country, and likewise from taxation; for capitalists will prefer employing it in that manner, than in more active employments, with that rate of interest; while, otherwise, lands might be improved; water power might be brought into operation, and other measures that would be productive of benefit to the State at large.

Mr. DANFORTH—I move the previous question. If the amendment is agreed to, it would take \$30,000 out of the treasury, and would clog the wheels of government.

Mr. N. PIERCE—I think the gentleman from Ingham is not fair. It is not my proposition; but I think that it ought to carry. Does the Auditor General control the wheels of government? I think that the taxes should be collected in the towns and counties.

Mr. AMMON BROWN moved the previous question on the article; and the same

being demanded, the main question was ordered to be put.

Mr. LEACH wanted to know where his amendment was?

The CHAIR—It falls with the motion.

Mr. LEACH—I think the gentlemen ought to be ashamed of themselves.

[Cries of order—order.]

Mr. J. D. PIERCE moved to reconsider the vote ordering the main question to be put.

Mr. MORRISON demanded the yeas and nays.

And the same prevailed—yeas 36, nays 31.

And the question being, shall the main question be now put? it was decided in the negative, by yeas 28, nays 38.

And, by the rule, the consideration of the article being suspended for the day,

Mr. HANSCOM moved to suspend the rules.

Mr. BUSH moved a call of the House; which motion was lost.

Mr. BRITAIN hoped that the gentleman from Oakland would withdraw his motion. If the matter was not pressed through to-day, we might do some other business. A disposition seems to prevail with some, to cut off the right of other members to present amendments, by the help of the previous question; and, to show how little good it can effect, how many motions to reconsider have been made within the three days? I hope the article will be permitted to remain where it is, out of the reach of the House, for one day. The people of the State of Michigan are not disposed to surrender what they consider their rights; and, for evidence, I may refer to the proceedings of this morning.

Mr. HANSCOM—I think that the gentleman from Berrien [Mr. BRITAIN] has lost his ordinary shrewdness. Where is the propriety of opening again the whole article. Why not dispose of it to-day, except it is the intention of the Convention to prepare a fresh nest of amendments. I want to get rid of it to-day; and I believe this Convention is as well prepared to vote upon the measure to-day, as it will be at any future time. I want to come to a vote upon the amendment of the gentleman from Genesee, and next upon the amendment of the gentleman from Calhoun. The

previous question is not upon the whole article.

Mr. J. D. PIERCE—If that is the position of things, I am in favor of a suspension of rules.

A MEMBER inquired if it required a majority, or a two-thirds vote; and what would be the effect of a suspension of the rules?

The CHAIR stated that it brought the matter fully before the Convention; and that it required a two-thirds vote.

Mr. BRITAIN thought that business would be facilitated if the article was allowed to lie over for the present.

Mr. ROBERTSON said a change had come over the spirit of the dreams of the gentleman from Berrien. He [Mr. R.] hoped that the rules would not be suspended. All the propositions had been voted down—some by an overwhelming majority. What was right in the case of the gentleman the other day, should be right to-day.

The yeas and nays being had, the result was—yeas 47, nays 19.

So the rule was suspended, two-thirds having voted therefor.

Mr. McCLELLAND moved a call of the House. The same was ordered, and MESSRS. ANDERSON, BEARDSLEY, CHAPEL, LEE, McLEOD and SKINNER were absent without leave.

Leave of absence was asked and obtained for MESSRS. McLEOD and SKINNER.

On motion of Mr. McCLELLAND, the Sergeant-at-arms was despatched for MESSRS. ANDERSON, BEARDSLEY, CHAPEL and LEE.

Who soon thereafter appearing in their seats,

On motion of Mr. LEACH, all further proceedings under the call were dispensed with.

The question being upon Mr. LEACH's motion to recommit the article Miscellaneous Provisions with instructions, a division of the question was had, and the motion to recommit first put and lost—yeas 30, nays 44.

The article was then read a third time, and the question being, "shall the article now pass?" the yeas and nays were had, as follows:

YEAS—MESSRS. P. R. Adams, W. Adams, Alvord, Arzeno, Axford, Beardsley,

Beeson, Britain, Ammon Brown, Burns, Bush, Chandler, Chapel, Choate, Church, Comstock, Conner, Cornell, Crouse, Danforth, Desnoyers, Eaton, Fralick, Gibson, Harvey, Hascall, Kingsley, Kinne, Lee, Marvin, McClelland, Morrison, Mosher, Mowry, Newberry, Robertson, Rix Robinson, Soule, Storey, Town, Van Valkenburg, Walker, Warden, Webster, Whipple, Whittemore—46.

NAYS—Messrs. Anderson, Barnard, H. Bartow, J. Bartow, Asahel Brown, Carr, Daniels, Gale, Gardiner, Green, Hanscom, Hart, Leach, Lovell, Moore, J. D. Pierce, N. Pierce, Prevost, Roberts, Sturgis, Wait, White, Williams, President—24.

So the article was passed, and under the rule referred to the committee on arrangement and phraseology.

Mr. McCLELLAND moved to suspend the rules limiting the time of debate, so far as it referred to proceedings in committee, during the time the article entitled "Upper Peninsula" was under consideration.

Mr. WILLIAMS—Yesterday we had questions of importance, and the rule was refused to be suspended. When it meets gentlemen's convenience, it can be retained and enforced in the most harsh and ungracious manner. Many of us are detained here most unwillingly. I have pressing business at home, that calls my attention so imperatively, that I only remain from a conviction of duty. This is not of more importance than other questions, and the extension of the rule I should regard as a gross act of injustice.

Mr. McCLELLAND—I hope the gentleman from St. Joseph will cast no imputations. When I moved to reconsider the vote, reference was made to the upper peninsula; and it was agreed by many that it should not apply to this question, as it was necessary that it should be discussed. The other questions have been fully discussed, but this has not. The gentleman from St. Joseph, himself, said, a little while ago, that on this subject he was in the dark. It will be discussed in committee of the whole. If it is tedious, we can bring it into Convention; then the rule will apply.

Mr. J. BARTOW—I hope that the motion of the gentleman from Monroe will prevail. I think that it ought to meet the views of the whole Convention. It is of

importance that the subject should be properly discussed; and it cannot be done with propriety under the rule that has been adopted. No gentleman can do justice to himself and his subject within that time, upon an entirely new question. I do not doubt that every gentleman in this Convention desires to do justice to the upper peninsula, and I hope the motion will prevail.

Mr. CORNELL—Upon my manual I find my name enrolled as a member of the committee upon the government of the upper peninsula; but that is all that I know about it. I have never been called upon; and I want time to be taken, so that I can understand the subject. I am confident that members will require more than five minutes to discuss the matter; therefore I want the rule suspended.

Mr. GALE—I am a member of the same committee, but that is all that I know about it. I have no voice in the report, and I hope that the rule will be suspended.

Mr. HANSCOM—I am in the same condition. I did not know anything about it, so I told them to fix it up to suit themselves.

Mr. WILLIAMS—The gentleman says that this is a new question. The rule was applied stringently the other morning when a question was presented that I deemed essential to the welfare of the country, and that had not before been offered to the consideration of this Convention. The hammer dropped, and the same courtesy was not shown to me that was extended to others all over the house.

I voted for the widest latitude, until it was put up for a special purpose. Now it is to be taken off for a special purpose; and I am opposed to its being so taken off, as I consider it as rank injustice. Let each man be confined to a speech of five minutes. For nine weeks we have had this subject before us, and if each member has done his duty, he is as well prepared to vote without speeches as he can be with them.

Mr. McCLELLAND—I find the name of the gentleman from St. Joseph among the yeas yesterday.

Mr. WILLIAMS—Yes; but after the rule was sustained. I want to keep it so.

Mr. N. PIERCE—I was opposed to it

yesterday; it was violated every few minutes. I want the gentlemen of the upper country to give us what information they can. I want the rule suspended.

Mr. MOORE—I believe that we should have had as good a constitution as we now have, if the five minutes rule had been adopted from the beginning, and we might have been home a month ago. Gentlemen might condense their speeches; it would have as good an effect—probably better.

Mr. ROBERTS—After every other article has had a full and free discussion, I hope that there will be civility enough in this Convention to allow the friends of the upper peninsula an opportunity of stating their views. For my part I cannot see what objection there can be. The report was printed as early as it was practicable. We labored under this difficulty, that we could not prepare it before we saw what the general frame work of the constitution was to be, as we wished to make it as much in accordance with it as possible.

The motion to suspend the rules prevailed by a two-thirds vote.

On motion of Mr. WHIPPLE, the Convention resolved itself into committee of the whole on the article entitled "of Upper Peninsula," Mr. WALKER in the chair.

Section 1 was read, as follows:

Sec. 1. That all that portion of the public domain within the territorial limits of the State of Michigan, including the boundaries of the islands of lakes Superior, Huron and Michigan, and in Green Bay, the Straits of Mackinac and the river Ste Marie, known as the counties of Mackinac, Chippewa, Delta, Marquette, Schoolcraft, Houghton and Ontonagon, and the islands thereunto attached, shall constitute a separate judicial district, and be entitled to one circuit judge, who shall perform the same duties, and possess the same powers of other circuit court judges of the State; and to one district attorney, who shall perform the duties of prosecuting attorney throughout the entire district, and who shall be elected at the same time, and hold his office for a like period

On motion of Mr. J. BARTOW, "one circuit," was stricken out, and the words "a district" inserted in line 5.

On motion of Mr. J. BARTOW, "other" was stricken out of line six, and the words "and hold his office for the same

period," were inserted after the word "State."

On motion of Mr. BRITAIN, the words "the boundaries of" were stricken out of line two.

Mr. WILLIAMS offered the following, to be inserted in sixth line, after the word "State:"

"*Provided*, That for the choice of a regent of the University, the territory described shall be annexed to the same judicial circuit as the county of Wayne."

Mr. J. BARTOW would like to know if the object of the mover was to deprive them of a regent?

Mr. WILLIAMS—Not if they have the proper population.

Mr. J. BARTOW—I see no necessity for attaching this territory to that of Wayne. If they are entitled to any privileges at all, they are entitled to the choice of a regent. Their necessities are as great with regard to education as with regard to judicial matters. The people are universally taxed, and you cannot with justice deprive them of any part of their rights. But they are entitled, above all others, to a regent of their own choice. As there are large settlements, there is a great territory, and many children to be educated. Why not extend to them this right? You might as well deny them their judicial privileges as deny them this.

Mr. WILLIAMS—Suppose they do not want a regent. Many districts will comprise 60,000 before they are entitled to the choice of a regent. Let it be distinctly expressed that they shall have a regent, or that they shall not.

Mr. DANFORTH—I would like to know if all this population has ever paid any tax except the specific tax.

Mr. ROBERTS—The same question has been asked before. I will answer it again. Mackinac has always paid a tax; so has Chippewa, except an improper tax, which was rescinded. The specific tax has been paid from the upper country. We are not indebted to the lower peninsula in any shape—in fact she is indebted to us.

Mr. BRITAIN—I am of a different opinion. I understand that the upper peninsula refuses to pay a State tax, on the ground that she has had no benefit from the State.

Mr. WHIPPLE would inquire if this discussion was pertinent to the question whether they had a right to elect a regent?

Mr. WILLIAMS—I think that it is a legitimate inquiry. I am prepared, and I hope that every gentleman is likewise prepared, to do justice to the upper country; but it is necessary that we should know the amount of taxes that have been paid. I understand that \$1700 is due from Chippewa alone, with the accumulated interest upon it, making it over \$2000.

Mr. J. BARTOW—When the financial matter comes up, we can then properly examine it. I believe that the gentleman from St. Joseph labors under a serious misapprehension on the subject.

Mr. WILLIAM's amendment was lost.

Mr. CHURCH moved to amend by inserting after the word "district," in line seven, the words "who shall have power to issue his warrant for the arrest of offenders, in cases of felony, returnable according to provisions of law."

Mr. C. said—I offer this in behalf of a delegate who is at present absent from the house. On account of the sparsity of population, a difficulty arises which the adoption of this amendment will tend to remove. An offence is committed of a grave character. The district attorney is summoned. By making inquiries, he is satisfied that the person should be arrested. He is obliged to go to some justice, perhaps living at a great distance, then send an officer with the warrant, and the result is such a delay that an opportunity is offered for the escape of the criminal. The amendment proposes to vest this power in the hands of the district attorney, after due examination of the facts connected with the alleged violation of the law, if he is satisfied that a warrant should be issued, that he may be enabled to do so in accordance with law.

I can see no objection to giving the prosecuting attorney this power in the upper country; it will save much delay, much expense. I offer this for the favorable consideration of the House. I am indifferent about the form, but I think that the power should be given.

Motion carried.

On motion of Mr. KINGSLEY, the words "in their respective circuits," were inserted after "State," in sixth line.

On motion of Mr. HASCALL, the words "to be elected by the qualified electors of said district," were inserted in fifth line, after the word "judge."

Sec. 2. That the boundaries defined in the preceding section shall constitute a senatorial district, and be entitled at all times to at least one Senator in the Senate of the State.

Mr. FRALICK moved to strike it out.

Mr. HANSCOM wanted some reasons.

Mr. FRALICK—I do not want to take up the time of the committee; but it should be left to the Legislature. They would give them all they were entitled to.

Mr. GALE—I cannot understand the reason for districting one district and not the others. I think that we are bound by the principle of justice to district the whole at the same time. Where, I would ask, is the propriety of districting one, and leaving the rest undistricted. It is contrary to reason and common sense.

Mr. FRALICK thought the matter ought to be left open. We had not the necessary information before us, and he thought that justice would be done to the upper country.

Mr. J. BARTOW—They are separated by nature from the lower peninsula, and if they are entitled to a Senator, it should be secured to them. It is most proper and just that they should be represented in both branches of the Legislature. We ask but one in the upper branch, and with respect to the other we can consult what is right. The immense interest that we all have in the settlement of this country will make us all feel that the rights of the country should be respected, and that by a distinct provision in the constitution. If it had been represented before, we should not have had gentlemen say that they were so ignorant with respect to its population or resources. I am fixed in the belief that we should give them a full, fair representation in both branches.

Mr. FRALICK—I did not assert that they would not be entitled to a Senator; but that I had no doubt full justice would be done to them. What they were entitled to, that they would have.

Mr. GALE—This involves another question. From the report it seems designed as a distinct government. If its interests are regarded as so distinctly oppo-

site to the interests of the State of Michigan, then it should be regarded in that light. But it is a question whether we, as the representatives of the people of the State of Michigan, have a right thus to separate one portion of the country from the other. I supposed that we came here to establish general principles, leaving them to be further carried out by the Legislature; but we have now a new idea, that we ought to establish a separate government; and I contend that by so doing we are departing from the principles which we were sent here to establish, and from every correct principle of government. Are not the Legislature as well qualified to district that portion as the rest of the State? Have they not as much authority to do it as we have? If they have not, I am utterly mistaken.

Mr. J. BARTOW—We have been obliged to depart from general principles by the geographical position of our State, and it is proper under our circumstances. Whereas, had we been situated like other States, it would have been wrong. We have varied in another respect, and with the gentleman's consent. In the representation for the new counties, we have done no more than what was just and proper; but if it was correct, as regarded the new counties, how much more is it needed with regard to this remote country, which is equal in extent to the whole inhabited portion of the State.

I was sorry to hear my colleague talk of a separation; it cannot be done with justice either to them or us. I hope that it will never be mentioned again. I repudiate the idea as much as I do the dissolution of the Union. You cannot take care of a country that is not represented. A member of Congress will only take care of his own district, his immediate constituents, and the rest of the country has to suffer; and it is a melancholy fact that there are but one or two men that can tell us any thing about the upper country.

This is a vast region of country, of many thousand square miles in extent, and it is our duty to see that it does not run to waste. While my colleague is right, as regards general principles, I think that an exception should be made with regard to the upper peninsula.

Mr. GALE—I think it is necessary, if

their interests are diametrically opposed to ours, and certainly the proceedings indicate a supposition of that kind; but I am opposed to any measure that will perpetuate that kind of feeling. What is asked? That we should give them six representatives; while, for anything we know, there are not more than as many hundreds of population. They are fully entitled to all their rights; but, are they not, and have they not been sufficiently protected? With regard to all the northern counties, it is not the square miles, but the population that was estimated. They may want a senator. I have no objection to give them a senator, provided we do it upon general principles; but I think that legislating in this manner for a part, is unjust towards the rest of the State. We are here to form an organic law, and we should not depart from general principles; if we depart from them, it should be for good and well known reasons, which have not in this case been given. We should at the same time district the whole State; and if they are then entitled to a senator, I am willing that it should be given to the upper country.

Mr. N. PIERCE said it was well understood that a separate article was to be brought in, giving a separate jurisdiction to the upper peninsula. When we gave the representatives to the northern counties, we made no provision for the upper peninsula at that time, and he expected they would want a senator.

The committee refused to strike out.

Sec. 3. The county of Mackinac, with the territory thereto attached, shall be entitled to one Representative to the State Legislature; the county of Chippewa, and the territory thereto attached, one Representative; the county of Delta, with the Beaver and other islands in the Straits of Mackinac, one Representative; the counties of Marquette and Schoolcraft, and the territory thereto attached, one Representative; the county of Houghton, and the territory thereto attached, one Representative, and the county of Ontonagon, with the territory attached thereto, one Representative.

Mr. FRALICK offered the following as a substitute for said section:

"The counties of Mackinaw and Chippewa, with the territory thereto attached, shall be entitled to one representative to

the State Legislature; the counties of Delta, Schoolcraft and Marquette, with the territory thereto attached, shall be entitled to one representative; and the counties of Ontonagon and Houghton, with the territory thereto attached, shall be entitled to one representative."

Mr. F. said—I wish this substitute adopted, as I think it is sufficiently liberal. I do not think that the population is entitled to more than three representatives. If we adopt the plan giving each county a member when it is organized, we shall have a member with a very small population. I believe that by the substitute the territory is contiguous to the county to be represented.

Mr. J. BARTOW—I do not know whether the delegate from Wayne has examined the map; but there will be some hundred of miles to travel to ascertain the election of one representative. The proposition is wrong; it is not applicable to the upper peninsula. The delegate from Wayne thinks it is liberal; we do not come here asking for liberality; we do not want charity; but we do come here to ask what is right. We do represent territory in the Legislature—we have adopted the principle in Congress. The whole Senate of the United States is based upon territory, not upon population. Florida has two representatives, and has probably not 10,000 white inhabitants. We ask what is right and proper, and do not transcend a general rule. Houghton has 2,000 inhabitants; Ontonogan 1,000; Schoolcraft 500; Delta has 1,000; and it must be recollected that these are all men. There is not the usual number of women and children; they are all adults, all voters; therefore the population is equivalent to five times the number in the settled districts of the State, because the usual number of adults is about one to five of the population generally.

Mr. GALE—Has Florida two representatives with only ten thousand white inhabitants?

Mr. WILLIAMS—At the last return, Florida had twenty-eight thousand inhabitants.

Mr. J. BARTOW—I spoke of the white inhabitants. I repeat, that if the counties had five times the population, there would be no question as to the propriety; yet that should be the rule to judge. Delta

is peculiarly situated; it is the best pine country in Michigan. Thousands of lumbermen come and go, and we should hold out inducements for them to become permanent citizens. I am not urging this matter because I have any personal feeling on the subject; but I want justice extended toward that portion of the country, that will become the California of Michigan, and will eventually be worth more than California, with all her gold.

What does the gentleman from Wayne mean by being liberal or charitable? He has no right to give anything away. We have only a right to be just, and that we may act justly, I present these facts. Does the gentleman from Wayne fear the political aspect it will assume? That has been destroyed, and the gentleman from Monroe [Mr. McCLELLAND] is father to the system; whether for good or for evil remains to be seen.

Mr. McCLELLAND—I was opposed to the system reported in the legislative article, and made some three or four speeches against the single senatorial district system.

Mr. J. BARTOW—I referred to biennial sessions and limitation of time. The gentleman from Monroe stands father to the system.

Mr. McCLELLAND—It was engrafted in the article in consequence of its being the unanimous wish of the people of the State. The people have fully expressed that wish. I represent merely a part of the people; and when we come here, knowing their wishes, we are bound to carry them out, unless we know that their opinions have changed.

Mr. N. PIERCE—I think that half the number of Representatives they ask will be sufficient for the upper peninsula. The population is sparse, and the gentlemen have given us but few facts. A great many are a transitory population; themselves and their families are numbered elsewhere. They merely go there for a few months in the summer. Here we have twelve representatives—

Mr. J. BARTOW—Who talks of twelve Representatives?

Mr. N. PIERCE—I do, sir.

Mr. J. BARTOW—Who besides?

Mr. N. PIERCE—I do not know. But we give six Representatives to the northern

counties, and six is wanted for the upper peninsula; and but little population in the whole. How many civilized Indians there are, I do not know; but there is but little evidence of a white population. They ought to tell us how many "half-breeds" there are, and how many settlements; but, instead of that, they only tell us of their riches, and talk about their rights. I think they ought to have three Representatives, and I think that is quite enough.

On motion of Mr. EATON, the committee rose, reported progress, and asked leave to sit again.

The committee, through their chairman, reported the same back, and asked and obtained leave to sit again.

On motion of Mr. CHURCH, the Convention adjourned.

Afternoon Session.

The Convention was called to order by the PRESIDENT, and a quorum being present,

On motion of Mr. HANSCOM, it was resolved into a committee of the whole on the article entitled Upper Peninsula, Mr. WALKER in the chair.

The committee resumed the consideration of Mr. FRALICK's substitute for section 5, when it was withdrawn, and the following offered in its stead:

"The territory embraced in the first section of this article, shall be entitled to three Representatives."

Mr. ROBERTS wished the report to be read.

The report of the committee on the affairs of the upper peninsula was read by the Secretary.

Mr. FRALICK—I propose to make a single remark. The proposition did not suit me, although I think three members a sufficient number. The gentleman from Genesee first said that he wanted us to be liberal; secondly, that he did not want any liberality; but I am willing to be liberal, and I think that this proposition is so. I do not think that this Convention possesses the proper knowledge of the locality and population of the upper country, to district the members; and if correct now, the whole aspect might be changed in three or four years; at least it would probably be

subject to change, more than any other portion of the State. It would probably be the best to leave it to the Legislature to do as they shall deem the best.

Mr. CORNELL moved to strike out "three" and insert "four."

Mr. ROBERTS—I would like to make an inquiry. We shall probably have one hundred Representatives in the House, and thirty-two Senators in the Senate. Will not ninety-four Representatives and thirty-one Senators be a fair compliment for the lower peninsula, consisting, as it does, of 36,000 square miles. The proportion which this bill calls for is small, as compared with the interests and value of the upper peninsula.

Mr. DANFORTH inquired if the whole taxes received from the upper country, including the specific taxes, would pay for seven members?

Mr. ROBERTS—I am prepared to answer that question at the proper time. We have paid by thousands into the treasury; while for us, you have paid for nothing, except for a member from Mackinac and one from Chippewa. Mackinac has paid all her indebtedness; so have most of the other counties. Chippewa has paid within a few hundred dollars. How is it, I would ask, with the other counties of the State? Berrien owes \$341; Calhoun, \$1,549 58; Cass, \$2,272 41; Chippewa, \$1,800 78—\$1,600 of which, by an act of the Legislature, was ordered to be rescinded, as it never ought to have been levied; therefore, the actual balance against Chippewa is \$200 68. Jackson, Kalamazoo, Kent, Lapeer, Livingston, Macomb, Monroe, Oakland, Wayne, St. Clair, Washtenaw, are all largely indebted to the State; whilst all that can be shown against those counties in the upper peninsula which I have named, is \$200 68. I will appeal to the records, if there is any charge against the mining companies; or if there is any charge against Ontonagon, Marquette, Schoolcraft, or any other county. There is not a cent due from that portion of the State to the Auditor General. There has been a large amount paid in from taxes and the mining companies; while the whole amount received has been only for the members from Mackinac and Chippewa; and we ought, in fact, to have part refunded. I might ask the gentleman from Ing-

ham, how the State debt of the lower peninsula compares with the debt of the upper? But I can assert that we have paid more than we have expended at any time, or upon any occasion.

Mr. DANFORTH—I did not call for the balance sheet of the several counties. The old counties are in debt \$30,000; the new ones, about \$40,000; but I called for a statement respecting taxes received from Mackinac, Chippewa, and the rest of the upper country. Chippewa has had a member for thirteen years, and it has cost the State over \$7,000 to pay for that Representative; while Chippewa has paid, in thirteen years, \$607, Mackinac has paid \$3,000; while her Representative has cost \$7,000 for the last thirteen years; and the mining companies have paid in between \$3,000 and \$4,000. Looking at the matter as it really exists, those who profess the most liberal views should be cautious, as the expense must be much greater if we entail seven Representatives upon that country. I voted in favor of the new counties, and I will go as far as my conscience will permit; but I cannot vote to give them six Representatives and one Senator, with so small a population and so little paid for taxes. I do not believe that the taxes of the whole upper country, including the specific taxes, would pay for those seven members. If they will show a shadow of right, I will go as far as any man to support them.

Mr. HANSCOM—One thing is hardly fair; that the gentleman from Ingham should calculate the expenses since the formation of the last constitution; because their expenses cannot justly be charged upon the mining counties. If the late constitution authorized a member to be sent with a small population from Mackinac and Chippewa, we should not therefore jeopardize the interests of the great mining country on Lake Superior.

If you choose to disfranchise Mackinac and Chippewa, that is one thing; if you choose to extend representation to the shores of Lake Superior, that is another matter. Mackinac and Chippewa have had a member for the last fifteen years. If this Convention chooses to withdraw their right of sending a member, they should not strike a blow at the newly organized counties beyond them; for there is no more

connexion between Mackinac and the counties beyond, than there is between Mackinac and Wayne.

The article has designated all the counties. I should have preferred it had the committee merely acted with reference to the five counties, and left it discretionary with the Convention in respect to the mining counties.

What are the facts with regard to the mining population? The last census told us that there were no settlements—not a white man existed there. But a short time has elapsed since the first vessel sailed from Saut Ste Marie, carrying a few individuals, who commenced exploring. Now, dating from that time, what has been the change of things? Some four years ago I was in that country—left in the fall and returned again in the spring. I was with Houghton and some others—traversed the country, and had an opportunity of becoming acquainted with its characteristics. Back of the coast there is an agricultural country; but on the coast agriculture cannot be carried on—it is a rocky region. What, then, has been effected since 1846—four brief years? At that time hardly a white man was there; one solitary schooner constituted the whole of the shipping interest from Detroit to the Saut Ste Marie, and one was drawn up on the side of Lake Superior shore. Now they have propellers and steamboats; then they carried in the one schooner a few supplies for the settlers; now they have a commerce of hundreds of thousands of dollars, in this work of four years. Then communication was only had once a month between Detroit and Mackinac, except sometimes by the addition of a strange vessel of pleasure, or a vessel trading for furs. Now they have regular lines of steamboats to Saut Ste Marie, connected with the other side, to afford a passage to Lake Superior. A slight reflection on what has been done in so short a time, must indicate to us the impropriety of basing our action upon the basis of the present population.

I am a citizen of one of the older and larger counties of Michigan, and I design to reside there as long as I live; but I believe there is magnanimity enough in our older counties to concede to our northern brethren the right of common justice. If you do not concede them all they ask, con-

cede them something. But we ought not to rob Mackinac and Chippewa of the right of representation which they have enjoyed for the last fifteen years, when the population was much smaller than it is now. Nor should we confine the representation of the upper peninsula to one member, with the important interests of the mines and fisheries, that we are bound to protect.

By the time we have another enumeration of the inhabitants, they will amount to more than twenty fold what they now are. What do they ask? One-thirty-second part of the Senate, about one-seventeenth of the House of Representatives. It may be of vast benefit to them; and we should take into account the probable increase, as judged by the increase of the last four years.

The upper peninsula has been no expense, except that of granting them charters. Shiawassee has cost the State more about her county seat than the whole of the upper peninsula; but shall we tell that county, you shall have no Representative, because you have cost us more than you have paid into the treasury.

Mr. WILLIAMS—How many votes did they cast for delegates to this Convention?

Mr. HANSCOM—I do not know. The community is scattered.

Mr. WILLIAMS—How many tons of shipping?

Mr. HANSCOM—I might make a very lengthy report.

Mr. DANFORTH—I have no ill feeling to the upper peninsula. I supposed that the permits were given to capitalists who went there to speculate. I think that seven Representatives are too many, as there is no proportionate population; and I do not believe the taxes would pay for the members.

Mr. ROBERTS—The gentleman is particular with regard to the upper peninsula. He will find on record that \$700,000 have been spent by the Legislature for roads and bridges. The money has been squandered, and not a dollar applied to the upper peninsula.

I wish the report read recommending the land to be so distributed—

Mr. N. PIERCE—I cannot foresee—

Mr. ROBERTS—I know the gentleman cannot foresee a great many things.

Mr. CORNELL—I do not see much propriety in having the report read. If the lands have all been squandered, it does not make any argument for the upper peninsula.

Mr. WHIPPLE—I would like to ask the delegate from Wayne, as he proposes three Representatives for the upper country, if he proposes to designate the counties that are to have Representatives.

Mr. FRALICK—I would leave that to the Legislature.

Mr. WHIPPLE—Mackinac is entitled to one Representative; so is Chippewa. If I understand the proposition rightly, one more Representative will be allowed for the mining country on the shore of Lake Superior. What, then, are you going to do with Delta and Beaver Island? They have population enough already to entitle them to a Representative; and there is to be a large accession of population on Beaver Island. Rather than deprive that portion from being represented, I should prefer throwing Mackinac and Chippewa in one district, as I believe that Delta and the Beaver Islands have population more than Mackinac and Chippewa put together. I do not, however, wish to deprive Mackinac or Chippewa of their Representative; nor do I wish the mining country or the fisheries to be unrepresented.

Gentlemen talk about the tax they pay. Is that the rule? No sir; you cannot apply it as a principle, and do justice. You must act according to circumstances; you cannot make taxation the rule of representation, for it would be unjust to the infant settlements. We have treated the principle as inapplicable as regarded the new counties. Gentlemen talk as if 20,000 square miles was a mere bagatelle—a mere nothing. There is a vast interest growing up in that quarter, and I am disposed to cherish it; for, by so doing, we shall benefit the whole State. I think the proposition of the gentleman from Wayne illiberal and unjust.

A division of the question being called for, section three was stricken out.

The substitute was then adopted.

Sec. 4. The Legislature shall provide by law for adequate compensation for the district attorney, and for detention and delays of such Senator and Representatives in the performance of their duties.

Mr. N. PIERCE—I move to strike the section out, because it provides for payment for detention and delays, which by law are not entitled to be paid for.

Mr. GALE—I have another reason. They want to keep all the specific tax. We shall have to pay for their judge and prosecuting attorney; now, they want extra pay for their representatives and senators; we are paying dearly, if it is a rich country. From such riches the Lord deliver me; for they are all in the earth and have to be dug out. We have called for information, and we have re-called, and in vain; while to hear the member from Oakland, [Mr. HANSCOM,] you would think it comprised all God's creation; that they had all the wealth and commerce in the world. It is very easy to make general assertions; it might be more difficult to prove them.

Mr. HANSCOM—How long is it since California was discovered?

Mr. GALE—A long time after the upper country was settled. Can we suppose that population will flow there as it does to California? A great portion of the lower peninsula is unrepresented; yet we have no call for a representative there. If we are to represent copper mines buried in the earth, let us fairly say so; but to have representation upon that foundation, and to then pretend that they represent human beings, I consider a perfect outrage.

Mr. J. BARTOW—We have already given a larger representation to the lower peninsula than to the upper.

Mr. GALE—I want the general assertions reduced to data.

Mr. J. BARTOW—What will you do with the persons appointed to represent the upper country? They must come in the fall, and remain here until February; and according to the legislative article, receive ten cents per mile for their traveling fees. If you refuse to do any thing more, you, in effect, disfranchise the whole country. You might as well refuse to give them a representation, as refuse to give them the means by which it can be rendered available. Can a man trust himself so far away from home for \$120, or \$180, with traveling fees? Not a man would do so in the lower peninsula. If it is the intention to disfranchise them, let us say so; if it is

not, let us at least treat them fairly. Do not make a promise to the ear and break it to the heart, as it is neither charity nor liberality. It is not right.

In Congress they pay eight dollars for every twenty miles. In the case of the delegate from Oregon, it was thought it would be an unjust sum, so they fixed it at \$2000. They departed from a fixed rule, because they thought it would be exorbitant. We wish, in a similar manner, that the matter should be left to the Legislature to do what is proper and right, as a compensation for the necessary delays that must take place; as without some such allowance we might as well strike it out of the article altogether.

Mr. CHURCH—The other counties in the State have been obliged to pay for their own prosecuting attorney; and probably the settled principle should be that each county shall pay their own prosecuting officer. If this is stricken out, my friend from Genesee certainly presents a strong case, as I think otherwise they will not be elected. Whatever number of Representatives we may finally decide upon to represent the upper country, propriety would suggest that we should make an exception with regard to their compensation.

It has been said that the inhabitants of the upper peninsula are inhabitants of the lower peninsula, and that the representatives will not live there. That will not be true. As population increases, the representative will be selected from the actual residents of the country; so this objection is of no force. Men are called here to attend to their duties, and they cannot get back until the first of May. That they should only receive the allowance paid to the other members, is to me preposterous and unjust. It will amount to an actual exclusion of the representatives of the upper country.

Mr. WHIPPLE—A representative from Mackinac or Chippewa has to travel 400 miles, and at the allowance of ten cents per mile, he will receive forty dollars for coming, and forty for returning. He must come in the fall and return in May. The time for coming and returning will make him absent from home about 180 days. The representative of the upper country may receive ten cents more for coming,

and ten more for returning, so that he would receive for 180 day's absence, \$200. And I would ask this Convention if they think that is a reasonable compensation, or if it will not disfranchise the whole upper country? I recollect, at the first session of the Legislature, the members for Mackinac and Chippewa came down, and the Legislature allowed them a reasonable compensation. We must look at the condition of things. The Legislature sits in February, and ten days in March. They must remain here the half of March and the whole of April before they can return; and I think it just that a fair allowance should be made, or the matter left to the Legislature.

Mr. CHURCH—I move to amend by striking out the word "shall," in line one, and insert "may." Also, strike out the words "for the district attorney, and," in the same line.

Mr. BRITAIN—That is as far as I wish to go. I recollect the case of a young gentleman who contested a seat from Mackinac or Chippewa. After it was decided against him, he started home in the winter. There is no reason that the Legislature should make a large allowance. If he chooses to earn his money, he can go; if he does not, he can remain here. But he can go home, and lose no time at all; it makes no difference at what season of the year.

Mr. CORNELL—An old man would not answer; he could not return; he must travel on snow shoes.

Mr. BRITAIN—I should esteem it no hardship. Any man who is fit to represent that country, can go home; he might ride a poney.

Mr. J. BARTOW—The gentleman from Berrien talks of getting to Mackinac with a poney. Why, he would have to take canoes. The gentleman from Berrien is a young man; when he is decrepid with the advance of years, he will think differently. Now he is in his prime, and thinks he could go in the winter.

Mr. BRITAIN—I think that a person can ride all the way; if he cannot, he can come out in a dog train.

Mr. ROBERTS—There are five hundred and fifty miles, and no trail at all for seven months in the year. If the gentleman from Berrien will go there, we will

send him as a Representative, give him all he can make, and guarantee him \$1,000 besides.

Mr. MOORE—If the members can get there, what can they do when they are there? While, if they are here, they can earn something. There, according to the statements, they cannot; for if it is impossible to get there, no business can be done.

Mr. N. PIERCE—I hope the section will be stricken out. I understand that one of the representatives lives in Detroit; so it cannot make any difference to him. The U. S. mail travels the year round, and a man can travel as well as the U. S. mail. The immense wealth that we have heard about, will, undoubtedly, open a back way very soon. I begin, almost, to believe it. I think I shall emigrate there. I think, as they are so wealthy, that we should not give them any extra pay. I think that three dollars during the session is sufficient.

Mr. ROBERTS—My honorable and intelligent friend from Calhoun unquestionably alluded to me, when he made the remarks about the Representative from the upper country living in Detroit. He has cast this aspersion twice or three times before; he did so in the Legislature. His extreme intelligence doubtless furnishes him with all the information respecting the upper country. I shall excuse him with the exception that I want to give a different impression than might be entertained respecting the representative from Chipewa living in Detroit. Did I not mention, as a fact, that the gentleman who now and has represented that section, has never, since he has been a representative there, resided for three months in the city of Detroit?

Mr. McCLELLAND—I think we ought to be reasonable. The delegate from Calhoun said that in the course of time there would be a communication with Mackinac, both winter and summer. I apprehend that until that is effected, an allowance will be absolutely necessary. The delegate from Berrien [Mr. WHIPPLE] said that the representative from the upper country would have to be absent from home 180 days, for a compensation of \$200. I ask the gentleman from Calhoun if that is reasonable? Would it not be better to leave it to the Legislature?

Mr. N. PIERCE—I think it is wrong. I would not ask the Legislature.]

Mr. McCLELLAND—That may be the case; he is able to live without any compensation. With all due deference to his opinion, I doubt whether he would represent them more than once, if he came down during the winter and remained here until May, for the small compensation that would be given. He might once—he probably would not again.

The amendment offered by Mr. CHURCH was agreed to.

The motion to strike out section four did not prevail.

Sections five, six, seven, eight and nine, were read.

Mr. N. PIERCE moved to strike them all out. The matter ought to be left to the Legislature.

Mr. ROBERTS—We are making an entire article for the upper country, and therefore we should insert all the provisions that are necessary. I hope that they may not be stricken out. With regard to the returning of the moneys collected from the mining companies, it is an act that we deem just and necessary.

Mr. N. PIERCE withdrew his motion.

On motion of Mr. LEACH, the committee rose, reported the article back with the amendments, asked the concurrence of the Convention therein, and to be discharged from the further consideration thereof.

Mr. ROBERTS moved to adjourn; but the Convention refused to adjourn.

Mr. ROBERTS moved that the consideration of the article, with amendments, as reported by the committee of the whole, be postponed until Monday next, and be made the special order of that day.

Upon which the yeas and nays were had; and the motion was lost; yeas 32, nays 34.

On motion of Mr. McCLELLAND, the article was laid upon the table.

On motion of Mr. McCLELLAND, the committee of the whole was discharged from the consideration of the article entitled "Of Salaries," and the same was taken up for consideration by the Convention.

"Sec. 1. The Governor shall receive an annual salary of one thousand dollars; the Judges of the Circuit Court shall each receive an annual salary of fifteen hundred

dollars; the State Treasurer shall receive an annual salary of one thousand dollars; the Auditor General shall receive an annual salary of one thousand dollars; the Superintendent of Public Instruction shall receive an annual salary of one thousand dollars; the Secretary of State shall receive an annual salary of eight hundred dollars; the Commissioner of the State Land Office shall receive an annual salary of eight hundred dollars; the Attorney General shall receive an annual salary of eight hundred dollars."

Mr. FRALICK—I move to strike out "\$1,000" and insert "\$800" as the salary of the State Treasurer.

Mr. J. BARTOW—I would like to know the reasons.

Mr. FRALICK—I think it is too much; nor do I see the propriety of the State Treasurer receiving more than the Secretary of State. I think that is a sufficient reason.

Mr. MORRISON—I will state the reasons that induced the committee to report the salary of the State Treasurer \$200 more than that of the Secretary of State. The responsibility is much greater; he has to give bonds to a large amount for the faithful performance of his duty; and for that reason, the committee thought it best to give him an increase of salary. It is not, however, greater than a good competent book-keeper can obtain in any of our cities.

Mr. ROBERTS moved to amend by inserting "\$250."

Mr. FRALICK—I understand that the State Treasurer has one cent for each bank bill that he signs; the money goes into his pocket, not into the treasury; while the bonds are merely a contingency, if the State Treasurer runs away or uses the State money.

Upon the proposition of Mr. FRALICK, the yeas and nays were had, and the same was lost—yeas 32, nays 33.

Mr. HASCALL moved to amend so much of the article as relates to the judges of the Supreme Court, by striking out "fifteen hundred," and inserting "twelve hundred."

Mr. J. BARTOW—I hope the gentleman will furnish us with reasons. I don't think it is exactly the thing to get up and make a motion either on the score of econ-

omy or extravagance, without the mover showing what purpose it has to serve. If we want good men we must expect to pay them liberally. If the committee have not fallen upon the right sum, let us amend it; but probably the gentleman wants to make a little capital for himself.

Mr. HASCALL said—The committee have reported \$1,000 as the salary of the Auditor General, and his duties are more severe. Farmers and laborers are getting one dollar per day, and think they get well paid; while, by my amendment, judges get three dollars per day, and they are not employed all the year; at least, not necessarily so. We have been called upon to reduce the salaries of the officers of the State, and I do not see the propriety of making the salary of a circuit judge greater than that of the governor of the State.

Mr. MORRISON—The committee, in considering the salaries, were disposed to consider the reason of the thing. I do not believe that we can draw talent and ability upon the bench, with a less salary than the one reported. I did not think that a motion would be made to put it lower, as the judges have received that amount for the last fifteen years. The traveling and other extra expenses, must, at the very least, amount to \$500, and a man cannot support his family as cheaply as if he was all the time at home. I hope it will not be reduced.

Mr. ROBERTS moved to insert "sixteen hundred."

A division of the question was had on striking out the amount contained in the article, and the motion to strike out was lost—yeas 17, nays 48.

Mr. CHURCH moved to amend by adding to the article, "and no fees whatever for the performance of any duties connected with their office."

Mr. C. said—A remark was made respecting certain fees that were received by a State officer. The sum might be large or of small account; but it is something of which the public knows nothing. While we are giving him a salary of \$1,000, he may actually receive \$1,400 or \$1,500.

Mr. VAN VALKENBURGH—They are entitled to certain fees.

Mr. CHURCH—Not if they draw them without any warrant by law; if they re-

ceive them, they should be entitled to them by law.

Mr. J. BARTOW—The Legislature may impose other duties not at present contemplated; and if, for the performance of those duties, they receive certain fees, I can see no impropriety in their so receiving them. The State Treasurer is said to receive certain fees for signing bank bills. It is an extra duty performed by him, and if he performs it he should receive pay for it, as there is no good reason why these fees should go into the treasury. The State does not countersign the bills for the sake of the fees, but to accord security to the bill holder. Is there any thing in this unjust or improper? If the pay is large or small, he works for it; and the Legislature can always regulate the amount of fees for these services. He must do the work no other man can do, and it can never be excessive, for the Legislature will always have control over the matter.

Mr. EATON—The gentleman supposes that the Legislature is going to ask them to do duties which they cannot perform. If they get so much per year, and do this within the year, they ought to have a yearly salary, and no more. They labor, or are supposed to do so, their whole time. If the Legislature want them to sign bills, it is within the time, and they should have no extra pay for signing the bills, or for any other work performed.

Mr. J. BARTOW—I am surprised to hear such an argument advanced. If we go on the factory system, and compel State officers to work twelve hours per day, let us say so; if we do not, then I think this fee is just. The State, for the security of the people, demands additional labor, and the pay should properly go into the pockets of the men who perform the work. We do not want to hire a man for one dollar, and make him earn \$1.25 per day, and put the balance into the treasury. He performs his regular duties; but this is an extra duty. He has to work extra hours, and I think he is fully entitled to the compensation, and that it would be ridiculous to put it into the State treasury.

Mr. FRALICK said that all we had done by way of restricting the salary, would be of no use, unless we adopted the amendment of the gentleman from Kent. The Legislature might give the Auditor Gen-

eral \$2,500 by means of fees. The amendment ought to be adopted, and if the Legislature appointed extra work, they might authorize the appointment of a clerk or deputy. He thought the restrictions ought to be placed in the constitution itself.

Mr. WILLIAMS—I move to insert after "fees," the words "or perquisites;" for it does not take any extra time. He has clerks. The fact is, the clerks do the duties of the office, and he has generally three-fourths of his time to himself. One State officer was absent several months last year, and the duty of the office was as well performed as they ever were. Few of the State officers are here their whole time. I hope the amendment will prevail.

The amendment as amended was then adopted.

Mr. EATON moved to adjourn, but the motion was lost.

Mr. McCLELLAND—I propose, sir, to strike out the entire article. These salaries must be considered by all as just and reasonable; but times change; circumstances change; and it may be necessary, from various causes, to increase the salaries of some, and reduce those of others; for it is evident that the duties of some may be materially increased for a series of years, while the duties of others may be diminished; and the Legislature can regulate all these things to the circumstances of the case, at the time it is acted upon. I believe it to be injudicious, and that every man's good sense will teach him the impropriety of arranging the salaries so that they cannot be changed.

Mr. MORRISON—I do not believe with the gentleman from Monroe, that the matter should be left with the Legislature. The salaries should be permanently fixed, or it will cause trouble in the Legislature. The people expect us to fix the salaries of the State officers.

Mr. ROBERTSON—I think I can show in a few words that there may be a great deal of truth in the argument of the gentleman from Monroe, [Mr. McCLELLAND.] It has been proposed seriously, and moved three or four times, that the taxes shall be collected in the towns and counties. If that should be carried into effect, I would ask gentlemen what would be the duties of the Auditor General. There would not be a duty but might be performed by a clerk;

while, if we get a grant of land, there would be an increased duty.

Mr. CHAPEL—I cannot agree with my colleague. I believe that it is the duty of this Convention to fix the salaries of these men, and thereby take this bone of contention out of the hands of the Legislature. What is the difference between appointing a clerk and electing an officer by the people, as regards the pay. A responsible clerk cannot be had at a less salary than six or seven hundred dollars per year, and the true policy is to elect persons, who will be responsible, to all these offices. We ought to fix the salary; and as to the perquisites, let them go into the treasury, and not let him earn another \$1,000 by signing bank bills. If the services are too arduous, let him have a clerk. But the gentleman from Monroe proposes to strike this article out of existence; the salaries of the judges, as well as the others. What will follow? You will have the eight judges and the whole of the State officers be-seizing the Legislature, wanting large salaries. I have seen this sort of thing as long as I want to see it. We ought to fix the salaries, and pay the judges good, round salaries; pay them well. A man of talent, a good lawyer, one who will give good decisions, should have more than \$1,200. If we reduce the salaries of the judges to \$1,000, with the expense which they must unavoidably incur for holding the circuits, what kind of judges shall we have on the bench?

Mr. CHURCH—The delegate from Monroe fixed, in his legislative article, the pay of members of the Legislature at \$3 per day for the next fifteen years. It may be worth \$5, or it may be worth \$2, as the condition of things may change; but now he wants these salaries left to the Legislature.

Mr. McCLELLAND—I see no analogy between the two cases. I think the argument of the gentleman from Macomb unanswerable. The Auditor General has at present a great deal to do; in five years' time he may have nothing to do; and I do not want the Legislature to be deprived of the power of reducing the salaries. As far as my own legislative conduct is concerned, gentlemen will perceive, by reference, that I have invariably been in favor of a reduction of salaries.

Mr. MOORE—The gentleman from Monroe reported a committee on salaries. He says they are just and proper; but now wishes to strike the article out of existence.

Mr. McCLELLAND—So there was a committee on the punishment of crimes; but I voted against the report. If I were supposed to be obliged to favor all that the committees choose to report, I should never have taken so responsible a situation.

Mr. DANFORTH moved to adjourn; but the Convention refused to adjourn.

Mr. BRITAIN offered the following substitute for the article:

"Executive, judicial and State officers shall receive such compensation as shall be prescribed by law; but such compensation shall neither be increased nor diminished during their continuance in office."

Mr. ALVORD moved the previous question on the article. A quorum not voting thereon,

Mr. MOORE moved a call of the Convention.

Mr. J. BARTOW moved to adjourn; but the Convention refused to adjourn.

Upon the question for a call of the Convention, the yeas and nays were had, and the same was lost—yeas 17, nays 44.

Mr. ROBERTSON moved to adjourn; but the Convention refused to adjourn.

The question being upon seconding the previous question, the same was demanded, and the main question was ordered to be now put, by yeas 39, nays 18.

The question being upon striking out the entire article entitled "Of Salaries," the yeas and nays were ordered, and the result was as follows:

YEAS—Messrs. P. R. Adams, Arzeno, J. Bartow, Britain, Burns, Choate, Hart, Lovell, McClelland, Roberts, Robertson, Rix Robinson, White, President—14.

NAYS—Messrs. W. Adams, Anderson, Alvord, Barnard, Beeson, Ammon Brown, Asahel Brown, Bush, Butterfield, Carr, Chandler, Chapel, Church, Comstock, Conner, Cornell, Crouse, Danforth, Daniels, Desnoyers, Eaton, Fralick, Gardiner, Green, Gibson, Hanscom, Harvey, Hascall, Kinne, Lee, Marvin, Moore, Morrison, Mosher, Mowry, Newberry, N. Pierce, Soule, Town, Van Valkenburgh, Wait, Warden, Webster, Whipple, Whittemore, Williams, Woodman—47.

So the article was not stricken out.

Mr. BARNARD moved to adjourn; but the Convention refused to adjourn.

The article was ordered to a third reading.

Mr. BRITAIN moved to reconsider the vote by which the article entitled "Miscellaneous Provisions" was passed; which motion he moved to lay upon the table. The Convention refusing to lay the motion on the table,

Mr. BRITAIN withdrew it.

Mr. WALKER moved to reconsider the vote by which the article entitled "Salaries" was ordered to a third reading.

Mr. WILLIAMS moved the previous question.

Mr. ROBERTSON moved to adjourn; and the Convention adjourned.

MONDAY, (54th day) August 12.

The Convention met pursuant to adjournment and was called to order by the PRESIDENT.

Prayer by the Rev. Mr. TOOKER.

PETITIONS.

By Mr. LEACH: of Norman Little and 71 others of Saginaw county, praying for the insertion of an article in the constitution making it the duty of the Legislature to obtain, if possible, a cession of all unsold lands in this State, &c., &c.

Laid upon the table.

REPORTS.

Mr. HART, from the committee on schedule, reported

ARTICLE —.

Schedule.

That no inconvenience may arise from the changes in the constitution of this State, and in order to carry the same into complete operation, it is hereby declared, that

Sec. 1. The common law and the statute laws now in force, not repugnant to this constitution, shall remain in force until they expire by their own limitations, or are altered or repealed by the Legislature.

Sec. 2. All writs, actions, causes of action, prosecutions and rights of individuals and of bodies corporate, and of the State, and all charters of incorporation, shall continue, and all indictments which shall have been found, or which may hereafter be found, for any crime or offence committed

before the adoption of this constitution, may be proceeded upon as if no change had taken place. The several courts, except as herein otherwise provided, shall continue with the like powers and jurisdiction, both at law and in equity, as if this constitution had not been adopted, and until the organization of the judicial department under this constitution.

Sec. 3. That all fines, penalties, forfeitures and escheats accruing to the State of Michigan, under the present constitution and laws, shall accrue to the use of the State under this constitution.

Sec. 4. That all recognizances, bonds, obligations, and all other instruments entered into or executed before the adoption of this constitution, to the people of the State of Michigan, to any State, county or township, or any other public officer, or any public body, or which may be entered into or executed, under existing laws, to any such officer or public body, before the complete organization of the departments of government under this constitution, shall remain binding and valid; and rights and liabilities upon the same shall continue and may be prosecuted as provided by law. And all crimes and misdemeanors and penal actions, shall be tried, punished and prosecuted, as though no change had taken place, until otherwise provided by law.

Sec. 5. All officers, civil and military, now holding any office or appointment, shall continue to hold their respective offices, unless removed by competent authority, until superseded under the laws now in force, or under this constitution.

Sec. 6. All county officers, unless removed by competent authority, shall continue to hold their respective offices until the first day of January, in the year one thousand eight hundred and fifty-three. The laws now in force, as to the elective and township officers, shall continue in force until the legislature shall, in conformity to the provisions of this constitution, provide for the holding of elections to fill such offices, and prescribe the duties of such officers respectively.

Sec. 7. On the ——— day of ———, A. D. 185 , the terms of office of the judges of the Supreme Court, under existing laws, and of the County Courts, and of the clerks of the Supreme Court, shall expire;

and on the said day, the terms of office of the circuit judges under this constitution shall commence.

Sec. 8. On the _____ day of _____, A. D. 185 , the jurisdiction of all suits and proceedings then pending in the present Supreme Court, shall become vested in the Supreme court established by this constitution, and shall be finally adjudicated by the court where the same may be pending. The jurisdiction of all suits and proceedings at law and equity, then pending in the circuit courts and county courts for the several counties, (and in the upper peninsula,) shall become vested in the circuit courts of the said counties.

Sec. 9. The probate courts and the courts of justices of the peace shall continue to exercise the jurisdiction and powers now conferred upon them respectively, until otherwise provided by law.

Sec. 10. The office of State printer shall be vested in the present incumbent until the expiration of the term for which he was elected under the law then in force; and all the provisions of the said law, relating to his duties, rights, privileges and compensation, shall remain unimpaired and inviolate until the expiration of his said term of office.

Sec. 11. In reprinting the statutes of this State, the Legislature shall provide for omitting all acts or parts of acts which have been repealed; but the Legislature shall have no power to authorize any alteration or modification of the laws actually in force, otherwise than is clearly designated in this constitution.

Sec. 12. It shall be the duty of the Legislature, at their first session, to adapt the present laws to the provisions of this constitution, as far as may be.

Sec. 13. Any country attached to any county for judicial purposes, if not otherwise represented, shall be considered as forming part of such county, so far as regards elections for the purpose of representation in the Legislature.

Sec. 14. This constitution shall be submitted to the people, for their adoption or rejection, at the general election to be held on the first Tuesday of November, A. D. 1850; and there shall also be submitted for adoption or rejection, at the same time, the separate resolution in relation to the elective franchise; and it shall be the duty

of the Secretary of State, and all other officers required to give or publish any notice in regard to the said general election, to give notice, as provided by law in case of an election of Governor, that this constitution has been duly submitted to the electors at said election. Every newspaper within this State publishing this constitution, as submitted, for six successive weeks previous to said election, shall receive as compensation therefor the sum of fifty dollars, to be paid as the Legislature shall direct.

Sec. 15. Any person entitled to vote for members of the Legislature, by the constitution and laws now in force, shall, at the said election, be entitled to vote for the adoption or rejection of this constitution, and for or against the resolution separately submitted, at the places and in the manner provided by law for the election of members of the Legislature.

Sec. 16. At the said general election a ballot box shall be kept by the several boards of inspectors thereof, for receiving the votes cast for or against the adoption of this constitution; and on the ballots shall be written or printed, or partly written and partly printed, the words "Adoption of the constitution—yes," or "Adoption of the constitution—no."

Sec. 17. The canvass of the votes cast and the returns thereof shall be made by the proper canvassing officers, in the same manner as now provided by law for the canvass and return of the votes cast at an election for Governor, as near as may be. On the — of — or within five days thereafter, the Auditor General, State Treasurer, and Secretary of State, shall meet at the capitol and proceed, in presence of the Governor, to examine and canvass the returns of the said votes, and proclamation shall forthwith be made by the Governor of the result thereof. If it shall appear that a majority of the votes cast upon the question, have thereon "Adoption of the constitution—yes," this constitution shall be the supreme law of the State from and after the — day of —; but if a majority of the votes cast upon the question, have thereon "Adoption of the constitution—no," the same shall be null and void.

Sec. 18. The salaries or compensation of all persons holding office under the pres-

ent constitution, shall continue to be the same as now provided by law, until superseded by their successors elected or appointed under this constitution; and it shall not be lawful hereafter for the Legislature to increase or diminish the compensation of any officer during the term for which he is elected or appointed.

Sec. 19. The Legislature, at their first session, shall provide for the payment of all expenditures of the Convention to revise the constitution, and of the publication of the same as is provided in this article.

Sec. 20. Every county entitled to a representative in the Legislature, at the time of the adoption of this constitution, shall continue to be so entitled under this constitution, unless otherwise specially provided for therein.

Which was read a first and second time by its title, laid upon the table and ordered printed.

MOTIONS AND RESOLUTIONS.

Mr. GALE offered the following:

Resolved, That the committee on printing be requested to cause the report of the committee on supplies and expenditures to be printed and laid upon the table of the members of the Convention on Thursday morning next.

Mr. G. said, at the time the report of the committee on supplies was made, he had moved that it go on the journal. It was considered a novel matter by some, but the Convention so ordered. But the morning following, a part only of the report appeared; the main part was suppressed. Again, on that day he had received but one copy of the journal, which seemed extraordinary.

Now, I wish (said Mr. G.) to see the whole of the report in print. All the information I can obtain from the chairman of the committee is that the stationery is cheaper than it was ever furnished before; but, from the course pursued, I am led to suspect "something rotten in Denmark." I want to get at the facts.

Mr. HANSCOM—I hope the gentleman from Genesee will be gratified. He intimates that there is something wrong, and I wish him to be enlightened. The report was printed in the journal, as ordered by the Convention, and the bills for the stationery will be printed with the documents, with references. The articles were pur-

chased of merchants in Detroit, who are of the highest respectability. Although they do not belong to my political party, I should be sorry to have it said that they had cheated the Convention.

Mr. GALE said he did not care whether the stationery was bought of whigs or democrats. If there was any iniquity in connection with the transaction, he wanted to ascertain it. The bills were an integral part of the report, and he wanted to see the whole of the report.

Mr. ROBERTSON moved to amend by adding, "and that one thousand copies be ordered to be printed for the use of the delegate from Genesee," [Mr. GALE.]

Mr. GALE said, though he happened to be in the minority on that floor, yet he had rights there, and would not be ridden down. The gentleman from Macomb [Mr. ROBERTSON] knew that he [Mr. GALE] did not want a thousand copies, but he wanted the report printed as ordered by the Convention, and any attempt to throw ridicule upon his efforts to obtain it would be abortive. If all was right, what in the name of common sense were they afraid of? The report, as made by the chairman of the committee, had not been printed, as ordered by the Convention; a part, and the main part, had been suppressed.

Mr. VAN VALKENBURGH said he saw no object in printing the bills. The report of the chairman of the committee was before the Convention, and we are [said Mr. VAN V.] referred to the Secretary of the Convention; that the bills are in his hands. Could not the gentleman from Genesee examine them? Why go to the expense of having them printed? The gentleman could examine the bills, and if he discovered anything wrong, he could report to the Convention. He hoped the motion would not prevail.

Mr. ALVORD moved to indefinitely postpone; but withdrew his motion.

Mr. GREEN said, this had been called an unusual proceeding. It did appear to him that there was something unusual about it. He did not know that there was any intention of doing wrong. The gentleman [Mr. GALE] called for the particulars; but a general report had been printed, and not the particulars; it goes on stating that the supplies were less than usual. The gentleman from Oakland [Mr. VAN

VALKENBURGH] says we have the privilege of going to the secretary and examining the bills, but it would be inconvenient for one hundred members to do so. There were delegates who wished to see the items of the bills; and he [Mr. G.] did not think it satisfactory, after they had been ordered to be printed in the journal, to be told that they might apply to the Secretary if they wished for such information.

Mr. HANSCOM said he was anxious that the whole matter should be printed. It had occupied more of the time of the Convention than the whole of the stationery was worth.

Mr. COMSTOCK hoped, in justice to the chairman of the committee, [Mr. HANSCOM,] the gentleman who offered the resolution, [Mr. GALE,] and the people, that the printing would not be postponed.

Mr. EATON said he was a member of the committee, and was desirous that the report should be printed and go to the world, to clear the committee from the charges of having practiced some fraud.

Mr. HANSCOM thought it due to those merchants who furnished the supplies that it be printed.

Mr. ALVORD said he had made the motion to indefinitely postpone, in good faith, as he had supposed the bills would be printed with the other documents, as an appendage to the journal; but as the gentleman from Genesee [Mr. GALE] had fancied that he had discovered a mare's nest, he [Mr. A.] was willing to have them printed in the daily journal. He did not think the gentleman from Genesee would discover anything very outrageous. Perhaps the gentleman judged there was something wrong, from what he supposed would have been his own action.

Mr. GALE said, had he been on the committee, he would not have acted so; he would have acted honorably, and laid the whole of the proceedings of the committee before the Convention.

Mr. CHAPEL said, on the return of the chairman from Detroit, the committee was called together, and the bills of the merchants were examined, item by item. To expedite the printing of other matter, we have got to dispense with the printing of the journal. Why go to this expense, when the gentleman can see the bills, and examine them, item by item?

Perhaps the gentleman [Mr. GALE] wants to make a little capital, which he has need of in Genesee. Perhaps he wishes to cover up his vote on the suffrage question. Believing that the Convention were in possession of all the information, and knowing that the printers had as much work as they could do, he would vote against the motion.

Mr. BRITAIN moved to amend the resolution, by adding the words "and such printing shall appear in the journal of the last day's proceedings of the Convention."

But the amendment did not prevail.

Mr. GALE modified his resolution so that the matter required to be printed should appear in the printed journal of today's proceedings; and, as modified, the resolution was adopted.

On motion of Mr. GREEN,

Resolved, That the Secretary be instructed to report to the Convention the amount of stationery on hand, specifying the different items, and the cost of each, as per bill.

The article entitled "Salaries" coming up for consideration,

Mr. WALKER asked if the question was not on the reconsideration of the vote by which the article was ordered to a third reading. That the Convention might understand his object in moving to reconsider, he proposed to offer a substitute, which he read.

The CHAIR said the first question was whether the Convention would sustain the previous question.

The previous question was sustained, and the main question ordered to be put.

The question was taken on the passage of the article, and the same was decided in the affirmative, by yeas and nays, as follows:

YEAS—Messrs. Alvord, Anderson, Arzeno, Axford, Barnard, Beardsley, Beeson, Ammon Brown, Asahel Brown, Butterfield, Carr, Chandler, Choate, Church, Comstock, Danforth, Desnoyers, Eaton, Fralick, Gardiner, Gibson, Hanscom, Hascall, Kinne, Moore, Morrison, Mosher, Mowry, Newberry, Orr, J. D. Pierce, Prevost, Robertson, Soule, Town, Van Valkenburgh, Walker, Whittemore, Williams, Woodman—40.

NAYS—Messrs. P. R. Adams, W. Adams, H. Bartow, J. Bartow, Britain, Burns,

Bush, Chapel, Conner, Cornell, Crouse, Daniels, Edmunds, Gale, Green, Hart, Harvey, Leach, Lee, Lovell, Marvin, McLeod, N. Pierce, Roberts, Rix Robinson, Skinner, Wait, Warden, Webster, White—30.

The CHAIR said the article was passed, and would be referred to the committee on phraseology.

Mr. WALKER—The question was on reconsideration. I suppose that my substitute is now in order.

Mr. J. D. PIERCE—I voted on the passage of the article.

Mr. WALKER—I asked if the question was not on reconsideration? I voted for reconsideration.

The CHAIR—I put the question on its passage.

Mr. WALKER—Then I want to change my vote.

Mr. EDMUNDS—There has been an error, and the chair is bound to correct it.

Mr. BARNARD moved a reconsideration of the last vote, which prevailed by yeas 51, nays 11.

Mr. WALKER inquired what had become of the motion to reconsider?

The chair stated that it had been cut off by the previous question.

The question was again taken on the passage of the article, and resulted as follows:

YEAS—Messrs. Alvord, Anderson, Arzeno, Axford, Beardsley, Beeson, Ammon Brown, Butterfield, Chandler, Choate, Church, Conner, Danforth, Desnoyers, Eaton, Fralick, Gibson, Hanscom, Hascall, Kinne, Marvin, Moore, Morrison, Mosher, Mowry, Newberry, J. D. Pierce, Soule, Town, Van Valkenburgh, Whittemore, Williams, Woodman—33.

NAYS—Messrs. P. R. Adams, W. Adams, Barnard, H. Bartow, J. Bartow, Britain, Asahel Brown, Burns, Bush, Carr, Chapel, Cornell, Crouse, Daniels, Edmunds, Gale, Gardiner, Green, Hart, Harvey, Kingsley, Leach, Lee, Lovell, McLeod, O'Brien, Orr, N. Pierce, Prevost, Roberts, Robertson, Rix Robinson, Skinner, Wait, Walker, Warden, Webster, White, President—39.

So the Convention refused to pass the article.

Mr. WALKER moved that the same be recommitted to the committee on "Salaries."

Mr. N. PIERCE moved to add "with instructions to fix the salaries as follows:

"Governor, \$1,000, Judges, \$1,200, Treasurer, \$1,000, Auditor General, \$800, Commissioner of State Land Office, \$1,000, Secretary of State, \$800, Attorney General, \$500, Superintendent of Public Instruction, \$800. They shall receive no more than is provided for in this constitution."

Mr. WALKER offered the following substitute for the instructions proposed:

"The Governor shall receive a salary of one thousand dollars per annum. The Auditor General, State Treasurer, Secretary of State, Commissioner of the Land Office, and Superintendent of Public Instruction, each such salary as shall be prescribed by law, not exceeding one thousand dollars each per annum. The Attorney General shall receive a salary, to be prescribed by law, not exceeding eight hundred dollars per annum. The circuit judges shall each receive an annual salary of not less than fifteen hundred dollars each, per annum, to be prescribed by law. The judge of the district court for the upper peninsula shall receive such annual salary, not exceeding one thousand dollars, as shall be prescribed by law. And no fees or perquisites of office shall be received by any such officer in addition to the salaries above named."

Mr. WILLIAMS—I am opposed to the introduction of such milk-and-water propositions in the constitution. The Convention meant something or nothing by the appointment of the committee on salaries. They meant that the salaries should be fixed definitely, or their action was meaningless. I am opposed to the proposition, because it will cost more than the salaries to legislate on them every year. And every man in every town and county who wishes to do a little fancy business as a demagogue, either in the famous Macomb school house, or anywhere else, will profess his anxiety to bring down salaries of public officers. I do not want to allow them this opportunity. The voters at the polls have more weighty matters to attend to at elections. I believe it would be better to increase the salaries three hundred dollars, constitutionally, than leave this subject open for petty agitation—a fruitful source of expense and mischief, both with the people and the Legislature.

I was (said Mr. W.) on the committee which reported the article, and though perhaps some of the salaries are a little too high, I would rather err on the side of liberality, than leave the matter open. The gentleman from Calhoun [Mr. N. PIERCE] wishes to bring the judges' salaries down, and would raise the salary of the Governor two hundred dollars. A judge does more drudgery in one year than a Governor in four years. The judges are subject to more expense in traveling, and require more industry, intellect, and information. They are men on whose learning and integrity repose the rights of the community. We are traitors to the public if we do not secure the best men in the State for the judicial bench. The Auditor has the hardest work in the government offices; his salary should not be reduced relatively to others. I believe there are two nearly sinecure offices. Some of us on the committee wished to combine them, but we were overruled. We have compelled the incumbents to keep offices here, and we must support them. If a man wishes to vegetate here, even on a salary of one thousand dollars a year, I think he has the hardest bargain. They will not have the business of ordinary trades; but if you require them to wait here and keep their families here, and break up their business elsewhere, pay them. Make them really do what you enjoin—really keep offices here, and pay them.

With regard to the fees and perquisites of office, I hope the gentleman will alter his amendment, so that they shall receive no fees or perquisites. To say they shall receive nothing more than their salary means nothing. A public officer should not be allowed to gouge men who have business with him, and under the pretence of extra official duties, swell his salary.

Mr. N. PIERCE—I am not a high salary man. I do not think I was sent here to increase salaries. I shall not go to increase salaries or multiply offices. It is proper to decrease the salaries and stop the holes in the constitution. The Governor's salary has been reduced from \$2,000 to \$1,500, and it may be to \$1,000. The judges should be reduced to \$1,200. Money never made a great man. A man who cannot live on \$1,200 a year, should resign. Gentlemen may state what the law-

yers make in their profession, but I do not believe they make a thousand dollars a year; at least I know many that do not. I believe there should be a reduction in expenses all the way down. We have reduced the expenses of the Legislature, if we do not undo it before we adjourn. The gentleman from St. Joseph [Mr. WILLIAMS] says he is in favor of amalgamation; but as they will not amalgamate, he says give them enough to make them respectable. I do not wish to give more than it is worth.

Mr. WILLIAMS—The gentleman from Calhoun [Mr. N. PIERCE] says that I wish to give a thousand dollars salary, to make officers respectable. I did not say so. I do not know who will be officers of government. They may be men whom no sum can make respectable.

Mr. CHAPEL moved to strike out the words "not less," and insert "not more."

Mr. HANSCOM hoped the substitute would not be adopted. The article was probably the best that could be got on the subject, and by opening the question again the Convention might get into trouble. In regard to the judges of our courts, a reduction in their salaries could not be advantageously applied. It was a matter of fact that there were in the city of Detroit many of the profession who would not take seats on the bench, because the salaries were far less than they could make at the bar. By fixing a liberal salary, the best talent could be secured. Reduce the salaries, and you drive from the bench men of the best talent.

Where I reside (said Mr. H.) there are two members of the bar who have refused to give up their practice to go on the bench. One of them would not take a seat on our Supreme bench, because he can make more by his profession. You elect for six years; if he gives up his practice for the office, and afterwards returns to the bar, his business is gone, and it may take him years to regain it. It is difficult to get on the bench the best talent in the State; but real economy requires us to get the best talent.

Mr. VAN VALKENBURGH did not believe the committee were extravagant in fixing the salaries. If the best talents were required, it would be necessary that the judges should receive a liberal salary. Gentlemen at the bar have to prepare themselves by study eight or ten years;

and any professional man in good practice would hardly relinquish it for the salary proposed. With regard to the Auditor's office, the duties are more arduous than any other. If any officer is entitled to an increase of salary, it is the Auditor. It was proposed to merge the two offices of Treasurer and Commissioner of the Land Office. The duties combined would not be equal to those of the Auditor; yet it is proposed to give each of those officers \$1,000. It is as low as the various offices can be filled with competent men. The salaries are fixed, and cannot be increased by the Legislature.

Mr. BRITAIN thought the salaries of the judges were too high. He knew of no reason why we should pay two or three hundred dollars a year more than they do in Indiana and Ohio. He wished the question to be taken on each separately.

Mr. BUSH said the proceedings were out of order. The question had been taken on the passage of the article, and lost. It could not be reached except by reconsideration of the last vote; which Mr. B. moved to reconsider.

Which motion prevailed.

The question again recurring on its passage,

Mr. N. PIERCE moved to recommit the article with instructions, as heretofore proposed by him.

Mr. DANFORTH proposed to substitute the following for the instructions: To add to the article, "and it shall not be competent for the Legislature to increase the salaries herein provided."

And the substitute was adopted.

The article was then recommitted with the instructions proposed.

Mr. VAN VALKENBURGH, from the committee on salaries, reported back the article amended agreeably to instructions; and the article as amended was passed and referred to the committee on arrangement and phraseology.

On motion of Mr. WOODMAN, the resolution offered by Mr. STOREY on the 5th instant, was taken from the table and indefinitely postponed.

On motion of Mr. FRALICK, the article entitled "Of Upper Peninsula of Michigan," was taken from the table.

The question being upon concurring in the amendments made in committee of the

whole, those to section 1 were severally concurred in.

The substitute for section 3, proposed by the committee, being under consideration,

Mr. CORNELL offered the following substitute:

"The counties of Mackinac and Chippewa, and the territory thereto attached, shall be entitled to one Representative; the counties of Marquette and Schoolcraft, and the territory thereto attached, one Representative; the county of Houghton and the territory thereto attached, one Representative; the county of Ontonagon and the territory thereto attached, one Representative."

Which motion was lost.

Mr. MORRISON offered the following substitute for the same:

"The county of Mackinac, with the territory which may be thereto attached, shall be entitled to one Representative to the State Legislature; the county of Chippewa, and the territory which may be thereto attached, one Representative; the counties of Houghton and Ontonagon, and the territory which may be thereto attached, one Representative; the counties of Delta, Schoolcraft and Marquette, and the territory which may be thereto attached, one Representative."

Which was not agreed to; yeas 33, nays 38.

Mr. HANSCOM offered the following substitute for the one proposed by the committee:

"Until after the census of 1855, there shall be elected in the territory defined in the first section of this article, four members of the House of Representatives; and the Legislature shall, at its next session, divide said territory into four representative districts."

Mr. H. said there was obvious impropriety in districting that portion of the State by the Convention. The census would be taken and known before the next meeting of the Legislature. The next Legislature would not only know the amount of population, but could also ascertain the wishes and feelings of the people. It must be recollected that the difficulty of traveling is ten-fold greater in the upper peninsula than in the lower peninsula. It would be most proper to fix the number of Repre-

representatives and leave it to the next Legislature to make the districts. Are four Representatives a larger number than that portion of the State is entitled to? Gentlemen have said we should adopt the same rule to one part of the State as the other. As far as we can, we should; but has Congress carried out this plan? In the North-western Territory it did not. Special provisions were made, adapted to their peculiar circumstances and wants. Shall we not do so? Sir, the same rule has been applied to six counties in our peninsula, to which have been given a greater representation, compared with their population, than any other counties, on the principle that they have interests that ought to be represented.

Gentlemen have told us that hundreds of thousands will soon be settled in the upper peninsula, and that the wealth would be unbounded; yet, when we ask one twenty-fifth of the representation, they say it is going to do the State injustice. How do their arguments harmonize? The interests of the upper peninsula are conceded to be very important, and of such a character that we can know nothing about them unless we receive information from their Representatives. Assuming the increase of population to be as great for the next four years as it has been during the four years past, they will be entitled to ten Representatives; but it will be seven years before they can get the representation according to the population. Justice demands this liberality at our hands; greater liberality was manifested in the old Convention. We ask that this, at least, should be done to them.

Mr. FRALICK was of opinion that to allow them three members was acting with great liberality, especially when they were allowed a Senator. From no calculation that he had made, could he ascertain that the population amounted to more than six thousand. A great portion of the population return to the lower peninsula in the fall. They are voters here, and, consequently, should not be voters there.

The substitute offered by Mr. HANSCOM was negatived—yeas 32, nays 36.

Mr. ROBERTSON moved to amend by inserting before "three," the words "at least;" which was not agreed to.

The substitute proposed by the committee was then concurred in.

Mr. McLEOD hoped the amendment to section 4 would not be concurred in. It must have been under some misunderstanding that it was made in committee. The Legislature must provide for the payment of the district attorney, or no provision could be made. There are a dozen counties in the district, having separate interests. The boards of supervisors can only meet once a year. They have no treasurers or county officers; and each county will want to pay as small a portion of this salary as possible. The Legislature should fix the salary, and levy a tax on the whole district. It was not intended to be a State expense.

He [Mr. McL.] had presumed that this was intended for the benefit of the upper counties. If they were not allowed to judge of their own interests, when they asked nothing, they had better withdraw the article.

The amendment made in committee was not concurred in.

Mr. McLEOD moved to amend section 4 by inserting after "district attorney," the words "by tax on said district."

Mr. BRITAIN said he did not know of our constitutional right to impose an additional officer on those counties, and compel them to pay his salary. To impose a district attorney on them for six years, and compel them to pay, he did not believe to be right. He doubted whether the interests of the country would be subserved by the appointment of this officer.

Mr. WALKER said it seemed to him proper. When counties are organized, provision is made for the payment of the services of the prosecuting attorney in the county. But gentlemen would perceive that no provision could be made here, because no provision had been made for the boards of supervisors to meet at one place. There was evident propriety in fixing the compensation, and the mode and means of paying. The gentleman from Berrien [Mr. BRITAIN] says he is opposed to fixing on those counties an officer, and compelling them to pay him. Has he not done so in the case of a prosecuting attorney in each county? They have no common board of supervisors meeting at one place, hence the necessity of the compensation being established by the Legislature.

Mr. N. PIERCE was in favor of striking

the district attorney out. If the counties were organized, why did they not elect the same officers as other counties? We are told of the great wealth of the district; why do they ask for special privileges? Why would not a prosecuting attorney answer as well in Mackinac and Marquette as in Oakland?

Mr. McLEOD said there were but two or three prosecuting attorneys in the upper peninsula. There was not sufficient business in one county to pay him. They say there is business sufficient in the whole district to pay him, and it is right they should club together to give him a sufficient salary to support him. It was difficult to make gentlemen understand the difference of circumstances between the upper and lower peninsula.

We have no roads (said Mr. McL.) for three hundred miles, but a bridle path, except those between the diggings, where they have cut roads to carry their copper. We have no interior communications—nothing but the water. In so old a county as Mackinac, we have not been able to get the bonds of our county officers approved, because our board of supervisors could not meet without ruinous results to their own interests. In some instances they have to come two or three hundred miles. There must be something to bring the entire county in jeopardy, to induce them to leave their business and come together.

The amendment prevailed.

Mr. ROBERTSON moved to amend section four as amended, by striking out all after "district," in the foregoing amendment, and insert in lieu thereof, "the senators and representatives provided for in this notice, shall receive the sum of ——— dollars each, and no more, as compensation for detention and delays in the performance of their duties, in addition to the mileage and per diem allowance provided for in this constitution, to members of the Senate and House of Representatives."

Mr. R. thought it would be much better to fix a definite sum than to leave it to the Legislature. If so left, it might be an inducement to improper motives in the votes on different questions in the Legislature. Suppose on a very important question the votes of those three representatives would have the control; they might say, we will go for your bill if you will go for our in-

increased compensation. I propose to keep these men free from such undue influences. The time of the session will be forty days, for which they will receive one hundred and twenty dollars. It seems the settled conviction of members of the Convention, that some further compensation should be paid. I would in addition give them sufficient to cover their expenses, rather than leave it indefinite and discretionary with the Legislature. It will save thousands of dollars.

Mr. N. PIERCE said it had been an open question every session of the Legislature. Sometimes they received \$100 extra, sometimes \$60, and sometimes nothing. They usually received on account of their daily pay and mileage, double the amount of members from the lower peninsula. The mileage would be reduced one-third; but it seemed to him there was no propriety in giving them extra pay, and he was in favor of striking out the section.

Mr. ROBERTS would make a proposition to the Convention, which he hoped would be satisfactory. It appeared the great trouble in relation to the upper country was with regard to the expense anticipated to accrue under the proposed arrangements, and was the cause of the opposition to the measures proposed. To relieve the lower peninsula, he would propose that the article be recommitted to the committee on the governmental and judicial policy of the upper peninsula, with instructions to so amend the same that the salaries of the district judge and district attorney, together with the expenses of a senator and their representatives, shall be paid out of the treasuries of the several counties; that the counties may be subject to taxation for county and township purposes the same as counties of the lower peninsula, and that all moneys paid into the State Treasury by mining companies, or as a tax for county and township purposes, shall be refunded to the treasuries of the several counties from which it may be received, deducting expenses of collection, if there be any.

Mr. BRITAIN said, while in a deliberative body, he had a duty to perform from which he should not be drawn aside. While legislating for that territory, he must consider that he was legislating for the whole State. The Convention had refused

to give to the upper peninsula more than three representatives. In the lower peninsula, one representative will have as large a constituency as those three; the provision made, he thought, was quite liberal.

He [Mr. B.] could not sustain the proposition of the gentleman, [Mr. ROBERTS,] because it was unjust. It was stated that the people in the upper peninsula asked for a district attorney. That was the first intimation he had had of such a desire on their part. There seemed to him as much propriety in it, as in saying they shall make certain roads and pay the expense. When the people of the district ask for a district attorney, there might be propriety in acceding to their wishes; but he considered the proposition of the gentleman from Chippewa adverse to the interests of the counties.

Mr. N. PIERCE wanted to know whether they did not expect to have a prosecuting attorney in each county?

Mr. McLEOD—Unless the lower country will furnish us with lawyers, we neither have nor expect to have.

Mr. EDMUNDS hoped the proposition of the gentleman from Chippewa [Mr. ROBERTS] would not be adopted. He was prepared to treat the upper peninsula as other portions of the State. There was no necessity for making the distinction proposed. The members would come here not to merely act for that section, but for the whole State. He believed there was a liberal feeling towards the upper peninsula in the Convention; all that was wanted was to know fully the circumstances of the country. He believed the proposition ought not to be entertained.

Mr. N. PIERCE moved to strike from the proposed instructions, so much as relates to per centage of mining companies, which was lost.

The motion to recommit did not prevail.

The question recurring on the amendment offered by Mr. ROBERTSON, relative to extra pay for members from the upper peninsula in the Legislature,

Mr. HANSCOM expressed his opinion that the matter ought to be left to the discretion of the Legislature.

Mr. CHURCH said—I hardly know how to get at the proposition; but I have made up my mind, as far as my vote goes, to close up this matter of extra compensa-

tion. I have come to the conclusion that it should not be left to the Legislature. It should either be struck out, and the representatives be left to get along in the best way they can, or the Convention should fix the compensation for the extra detention. I see inducements for log-rolling in respect to this extra pay, which should never be permitted by this body. There appears to be some reason for giving to those representatives some extra compensation, and I am satisfied it is perfectly in the power of this body to fix the amount definitely, that the log-rolling may be forever after prevented. I shall give my vote when I can steer my way through to carry out that view.

As to the district attorney, I believe each county in that peninsula cannot sustain its prosecuting attorney. The action is correct to give one district attorney to follow the judge in the exercise of his duties. In another section we provide that each county shall have one prosecuting attorney. If we pass this, there will be required some change in that. There will be a struggle in the several counties in regard to his pay, and some legislative action is necessary to provide for that. It does become necessary for the Legislature to step in and say the district attorney shall have a salary, and prescribe the mode in which he shall be paid.

As to a tax on the counties, I would leave it to the Legislature, as we have come to the conclusion at last, that after all, Legislatures may have some wisdom, though very little. It is necessary to say the Legislature shall provide by law for the compensation of the district attorney. If I vote for any extra compensation at all for the representatives and senator, I would fix the sum, and close up the matter of compensation forever.

Mr. WILLIAMS—I wish the substitute I offered, to be read, though it is not in order, as it meets the views of the gentleman from Kent, [Mr. CHURCH;] and for the same reasons that operate on his mind, I offered it. I think we should leave no gap open. The committee on salaries contemplated no such officers as judge and district attorney for the upper peninsula. If the upper peninsula has a large per centage on specific taxes, the Legislature may provide for the payment of those offi-

cers from such resources; if not, they will cause the payments to be made out of the general fund. As to the duties, they will all be performed in the summer season. From statements made by gentlemen who are acquainted with the country, it appears to be almost impossible for the judge to go through that district in winter. And with regard to the district attorney it will be the same. I would fix (said Mr. W.) the compensation of all officers. I would fix the standard at some rate. If \$1000 for judge, and \$500 for district attorney are not right, make them so. With regard to the extra compensation for the representatives from the upper peninsula, I would not have it left to the discretion of the Legislature. We know that votes may be paid for in the Legislature, because we know they have been; and we know that three clever men having votes at disposal, may dictate the compensation they may be allowed, if left to the decision of the Legislature. I will show how it would operate under the present constitution, and also under the new one. Pay, under the present, for 60 days, at three dollars per day, \$180; mileage, \$240, will make \$420. Add two dollars a day extra, \$120, will give the most distant member the round sum of \$540. The Mackinac member will get less; say for pay, mileage and extra compensation, \$390. By 1855, there will be new modes of communication. There will be roads by Green Bay, and the Bay de Noquet, and I have no doubt the upper peninsula can then be reached at any season. In Canada they travel in winter; and men in New Hampshire do so. I never heard of a man receiving extra pay in Maine or New Hampshire, for attendance on the Legislature.

How will it be in 1855? The pay of the most distant member will be \$120; mileage \$160, say \$280. Pay for the nearest member, and mileage, \$280. It is enough; it is more than they can earn at home. No man will reject the office, and there will be candidates enough. If the allowance contemplated by my section is not just and equitable, let us fix it at something, so that the time of the Legislature may not be taken up, and the bonus may not be a corruption fund.

The amendment to section 4 offered by Mr. ROBERTSON was lost.

Mr. WILLIAMS offered the following substitute for section 4:

"The Legislature may provide for the payment of said district judge, not exceeding \$1,000 per annum; and of said district attorney, not exceeding \$500 per annum. In cases of delay and detention, it shall be competent for the Legislature to make extra compensation to the members of the Legislature from said described territory, not exceeding two dollars per day during the session of the Legislature."

On motion of Mr. MOORE, "500" was stricken out, and "700" inserted.

The substitute as amended was agreed to.

Mr. BRITAIN offered the following substitute for section 6:

"One-half of all money received into the treasury from corporations in the upper peninsula paying a State tax of one per cent. per annum, shall be paid to the treasurers of the counties from which it is received, to be applied for township and county purposes, as provided by law."

Mr. FRALICK moved to strike out section 6.

Mr. ROBERTS moved a call of the Convention. The same being ordered, Messrs. AXFORD, BARNARD, BUSH, KINNE, LEACH, J. D. PIERCE, WARDEN and WHIPPLE were absent without leave.

Mr. BRITAIN asked and obtained leave of absence for Mr. WHIPPLE; when,

On motion of Mr. ROBERTS, the Convention adjourned.

Afternoon Session.

The PRESIDENT called the Convention to order,

And a quorum being present, resumed the consideration of the unfinished business of the morning, being the article entitled "Of Upper Peninsula of Michigan."

The question being on Mr. BRITAIN's substitute for section six,

Mr. HANSCOM moved to amend the same by adding thereto, the words "but the Legislature shall have power, after the year 1855, to reduce the per centum to be refunded."

Mr. B. said there were a number of companies paying one per cent. specific tax to the State, which were exempt from pay-

ing anything for county or township purposes. The object of the proposed substitute was to enable the counties to derive support from these taxes. Other companies paid a specific tax of one-half of one per cent., and subject also to be taxed for county and township purposes. There was some justice in taking back one-half of the one per cent. paid into the treasury, which there would not be in the case of those companies which paid in only one-half of one per cent.

The amendment to the substitute was carried.

The question being on the substitute, as amended,

Mr. FRALICK was of opinion that sections six, seven, and eight, should be struck out. The specific taxes imposed upon those mining companies should be paid into the State treasury, intimating that they should be retained for the benefit of the upper country. He [Mr. F.] did not think the Convention was in possession of sufficient information to fix it exactly. After the census shall have been taken, and more information obtained in relation to the circumstances of the upper peninsula, the Legislature will be able to act more advisedly.

Mr. HANSCOM said it was purely nominal. By no calculation can the amount proposed to be returned be equal to the demand. After that time, the Legislature may say, instead of paying back five mills, there shall be paid back two or three mills. Anxious as I am (said Mr. H.) to see justice done to that part of the State; anxious as I am to protect them, I am unwilling to allow the Legislature the liberty of paying back this specific tax.

Mr. BRITAIN said, the Legislature, when imposing this specific tax, had exempted those companies from local taxation. He thought the Convention would see the propriety of paying back a part of this tax for the support of the local government.

Mr. N. PIERCE—I don't like this. I don't like paying back any thing. Some of those chartered companies pay one per cent, others one-half of one per cent. I should like better to say the Legislature shall equalize the specific tax on those companies. It seems to me it would be

better to do something else than pay money back.

Mr. HANSCOM—There may be a great question, after chartering the companies and fixing a tax, whether it is not in the nature of a contract, and whether the Legislature can touch it. There seems some impracticability about it.

The question was first taken on striking out the section, (6,) and the same prevailed.

On inserting the proposition of Mr. BRITAIN, the yeas and nays were had, and the same prevailed—yeas 45, nays 18.

On motion of Mr. HANSCOM, sections 7 and 8 were stricken from the article.

Mr. WHITE moved to amend section 1 by striking out all after "elected," in the 8th line, and inserting "for a term of two years;" and the same prevailed.

On motion of Mr. CHURCH, the following was adopted in lieu of section 2:

"The territory described in the above section shall at all times be entitled to at least one Senator in the Senate of the State."

Mr. MOORE moved to strike out section 9, and asked the yeas and nays thereon.

Mr. ROBERTS—In the report of the committee, the gentleman [Mr. MOORE] will find that the companies are compelled to take up their land at \$2 50 an acre, under their permits. If they take less than a quarter section, they must pay \$5 00 an acre. It would seem to be a great hardship to the companies to separate them, and compel them to take up a single quarter section at five dollars an acre instead of a larger quantity at \$2 50. He [Mr. R.] would observe that six hundred and forty acres, in connection with a mining company, would not last ten years for fuel.

There are two or three companies which have half a million invested, instead of \$250,000, as most of them have. Most of them cannot expend more than \$10,000 in the next two years to any profit, yet they will have to pay in fifty thousand.

Mr. MOORE—Is not the Legislature open to act on this subject?

Mr. ROBERTS—If the gentleman will reflect, the privilege is cut off from the Legislature.

Mr. MOORE—The Legislature will have the same power they have now.

Mr. ROBERTS—The constitution cuts off the action of the Legislature, except by general laws.

Mr. HANSCOM—It can do no harm. Any alteration would have to be submitted to the people of the State.

The motion was lost—yeas 23, nays 44.

Mr. CHAPEL offered the following as a new section to the article:

“The Legislature may change the location of the State Prison from Jackson to the upper peninsula of Michigan.”

Mr. C. said there had been complaint of the labor of the convicts coming in competition with the labor of the mechanics of the State. The prison was at present a sinking fund. It cost the State some five or six thousand dollars a year. By locating it in the upper peninsula, it might be made to pay into the treasury a large amount of money. In addition to this there seemed a great deal of difficulty growing up between the citizens of Jackson.

This provision would leave the matter in the hands of the Legislature. They may take it from where it is a bill of expense, and a source of dissatisfaction to the people of Jackson, and locate it where it may be productive of income to the State.

Mr. N. PIERCE—I am in favor of the proposition. I believe it will be our interest some day to remove it there. Under a charter a company will be able to take the labor of the prisoners to the benefit of the State.

Mr. BUSH—I am in favor of the proposition. Though not necessary to remove it at present, it will be calling the attention of the Legislature and the public to the subject. Although the labor of the prisoners is now attended with evil, it is running the State into debt every year.

The State owns one of the finest sections in the mining district, upon which the labor of the prisoners may, under proper arrangements, be made profitable. He [Mr. B.] hoped the motion would be carried, and the attention of the public and the Legislature called to the subject.

The proposition of Mr. CHAPEL was adopted.

Mr. BRITAIN moved to amend section nine by adding thereto:

“But no such corporation shall be permitted to purchase any real estate except

such as shall be necessary for the exercise of the corporate franchises of such company.”

And the same was agreed to.

The question then being on ordering the article to a third reading, it was so ordered by yeas and nays, as follows:

YEAS—Messrs. Alvord, Arzeno, Axford, H. Bartow, J. Bartow, Beardsley, Beeson, Britain, Burns, Bush, Butterfield, Carr, Chandler, Chapel, Church, Conner, Cornell, Crouse, Danforth, Desnoyers, Eaton, Edmunds, Gardiner, Green, Hanscom, Hascall, Kingsley, Kinne, Lee, Marvin, Morrison, Mosher, Mowry, Orr, J. D. Pierce, N. Pierce, Roberts, Robertson, Rix Robinson, Skinner, Soule, Town, Van Valkenburgh, Wait, Walker, Whittemore, Woodman, President—48.

NAYS—Messrs. P. R. Adams, W. Adams, Anderson, Barnard, Ammon Brown, Asahel Brown, Choate, Comstock, Daniels, Fralick, Gale, Gibson, Hart, Harvey, Lovell, Moore, Warden, White, Williams—19.

The article was then read a third time by its title, passed, and referred to the committee on arrangement and phraseology.

On motion of Mr. BUSH, the Convention then adjourned.

TUESDAY, (55th day,) August 13.

The Convention was called to order by the President.

Prayer by the Rev. Mr. MERRILL.

PETITIONS.

By the President: of Ross Wilkins, D. V. Bell, A. H. Redfield, and fifty others, praying for the insertion of an article in the constitution, making it the duty of the Legislature to obtain, if possible, a cession to the State, of all unsold and unappropriated public lands lying within its limits, &c. Laid on the table.

By Mr. REDFIELD: of sundry inhabitants of the county of Cass, praying a constitutional bar to all the negro race. Laid on the table.

REPORTS.

Mr. McCLELLAND, from the committee on arrangement and phraseology, reported that the duty assigned that committee had been performed, and that in con-

formity with a resolution of the Convention, the several articles had been placed in the hands of the printer.

RESOLUTIONS.

On motion of Mr. GARDINER,

Resolved, That the printing of the daily journals of the Convention be suspended until after the final adjournment.

On motion of Mr. BEESON,

Resolved, That a committee of three be appointed to superintend the enrollment of the constitution, preparatory to its being signed.

On motion of Mr. WOODMAN,

Resolved, That the chairman of the committee on supplies be authorized and required to furnish the post master at Lansing with a copy of the manual of this Convention.

Mr. ALVORD offered the following:

Resolved, That the Secretaries, Reporters, Messengers, Sergeant-at-Arms, and Door-keeper, who were appointed at the commencement of the Convention, be entitled to mileage; and that the Secretary be instructed to draw a warrant for the same.

On motion of Mr. CHURCH, the resolution was laid on the table.

On motion of Mr. CHURCH,

Resolved, That the committee on supplies be and are hereby requested to make some arrangement with the post master of this place, for the payment of the postage upon mailable matter received by the Convention since the first day of August, present, and report the same.

On motion of Mr. BRITAIN, the article entitled "Schedule" was taken from the table, read the first and second time by its title, and taken up for consideration in Convention.

The following sections were then severally read and agreed to, viz:

That no inconvenience may arise from the changes in the constitution of this State, and in order to carry the same into complete operation, it is hereby declared, that

Sec. 1. The common law and the statute laws now in force, not repugnant to this constitution, shall remain in force until they expire by their own limitations, or are altered or repealed by the Legislature.

Sec. 2. All writs, actions, causes of action, prosecutions and rights of individuals and of bodies corporate, and of the

State, and all charters of incorporation, shall continue; and all indictments which shall have been found, or which may hereafter be found, for any crime or offence committed before the adoption of this constitution, may be proceeded upon as if no change had taken place. The several courts, except as herein otherwise provided, shall continue with the like powers and jurisdiction, both at law and in equity, as if this constitution had not been adopted, and until the organization of the judicial department under this constitution.

Sec. 3. That all fines, penalties, forfeitures, and escheats accruing to the State of Michigan under the present constitution and laws, shall accrue to the use of the State under this constitution.

Section four was then read, as follows:

"That all recognizances, bonds, obligations and other instruments entered into or executed before the adoption of this constitution, to the people of the State of Michigan, to any State, county or township, or any other public officer or public body, or which may be entered into or executed under existing laws, to any such officer or public body, before the complete organization of the departments of government under this constitution, shall remain binding and valid; and rights and liabilities upon the same shall continue, and may be prosecuted as provided by law. And all crimes and misdemeanors and penal actions, shall be tried, punished and prosecuted, as though no change had taken place, until otherwise provided by law."

On motion of Mr. ROBERTSON, the words "to the people of the State of Michigan," were inserted after the word "laws."

On motion of Mr. CORNELL, the word "other" was struck out of the third line, before the words "public officer."

On motion of Mr. ROBERTSON, the word "any," before "public," in the same line, was stricken out.

Mr. ALVORD moved to strike out the word "any," in the fourth line, before the word "such."

The motion was not agreed to.

The fifth section, as follows, was read and agreed to:

Sec. 5. All officers, civil and military, now holding any office or appointment, shall continue to hold their respective offi-

ces, unless removed by competent authority, until superseded under the laws now in force, or under this constitution.

Sec. 6. All county officers, unless removed by competent authority, shall continue to hold their respective offices until the first day of January, in the year one thousand eight hundred and fifty-three. The laws now in force as to the election of township officers, shall continue in force until the Legislature shall, in conformity to the provisions of this constitution, provide for the holding of elections to fill such offices, and prescribe the duties of such officers respectively."

On motion of Mr. ROBERTSON, the words "election of," were stricken from the section, and the words, "election, qualification and duties of," were inserted in lieu thereof.

On motion of Mr. GALE, the word "day" was stricken out in the second line, and "Monday," inserted.

Sec. 7. On the — day of —, A. D. 185 , the terms of office of the judges of the Supreme Court under existing laws, and of the County Courts, and of the clerks of the Supreme Court, shall expire; and on said day the terms of office of the several judges under this constitution shall commence.

On motion of Mr. ROBERTSON, the section was amended by the insertion of the words "of the judges," before the words "of the County Courts."

Sec. 8. On the — day of —, A. D. 185 , the jurisdiction of all suits and proceedings then pending in the present Supreme Court, shall become vested in the Supreme Court established by this constitution, and shall be finally adjudicated by the court where the same may be pending. The jurisdiction of all suits and proceedings at law and equity, then pending in the Circuit Courts and County Courts for the several counties, shall become vested in the Circuit Court of the said counties.

On motion of Mr. HANSCOM, section eight was amended by adding thereto, the words "and of the district court of the upper peninsula."

The following sections were read and agreed to:

Sec. 9. The probate courts, the courts of justices of the peace, and the police court authorized by an act entitled "an

act to establish a police court in the city of Detroit," approved April second, one thousand eight hundred and fifty, shall continue to exercise the jurisdiction and powers now conferred upon them respectively, until otherwise provided by law.

Sec. 10. The office of State printer shall be vested in the present incumbent until the expiration of the term for which he was elected under the law then in force; and all the provisions of the said law relating to his duties, rights, privileges and compensation, shall remain unimpaired and inviolate until the expiration of his said term of office.

Sec. 11. In reprinting the statutes of this State, the Legislature shall provide for omitting all acts or parts of acts which have been repealed; but the Legislature shall have no power to authorize any alteration or modification of the laws actually in force, otherwise than is clearly designated in this constitution.

Section twelve was read as follows:

Sec. 12. It shall be the duty of the Legislature, at their first session, to adapt the present laws to the provisions of this constitution, as far as may be.

Mr. CHURCH moved to amend the same by preceding it with the following:

"The Governor, after the adoption of this constitution by the people, shall appoint — persons, whose duty it shall be to adapt the present body of statute law of this State to the provisions of this constitution, (but who shall have no power to make any alteration or modification of the laws now in force, otherwise than is clearly designated in or required by this constitution,) and who shall present to the Legislature for their action at its next session their proposed alterations and modifications of said statute law; and,"

Mr. WALKER moved to amend by adding to the foregoing, the words "who shall receive such compensation, not exceeding seventy-five dollars each, as shall be allowed by the Legislature."

The amendment was accepted by Mr. CHURCH.

Mr. HANSCOM offered the following substitute for the proposition of Mr. CHURCH:

"The Attorney General of the State is required to prepare and report to the next Legislature, at the commencement of the

session, such changes and modifications in existing laws as may be deemed necessary to adapt the same to this constitution, and may be best calculated to carry out its provisions, and who shall receive no additional compensation."

Mr. CHURCH withdrew his amendment.

The amendment of Mr. HANSCOM was agreed to.

Sec. 13. Any country attached to any county for judicial purposes, if not otherwise represented, shall be considered as forming part of such county, so far as regards elections for the purpose of representation in the Legislature.

Mr. MORRISON moved to strike out the word "country," and insert "territory;" which was agreed to.

On motion of Mr. CHURCH, the same section was amended by striking out at the end thereof the words "in the Legislature."

Sec. 14. This constitution shall be submitted to the people for their adoption or rejection, at the general election to be held on the first Tuesday of November, one thousand eight hundred and fifty; and there shall also be submitted for adoption or rejection, at the same time, the separate resolution in relation to the elective franchise; and it shall be the duty of the Secretary of State, and all other officers required to give or publish any notice in regard to the said general election, to give notice as provided by law in case of an election of Governor, that this constitution has been duly submitted to the electors at said election. Every newspaper within this State, publishing this constitution as submitted, for six successive weeks previous to said election, shall receive as compensation therefor, the sum of fifty dollars, to be paid as the Legislature shall direct.

Mr. WOODMAN moved to amend section 14 by striking out all after "election," in the 6th line.

Mr. WILLIAMS moved to amend the clause proposed to be stricken out, by striking out "six" and inserting "three;" and by striking out "fifty" and inserting "fifteen."

Mr. HANSCOM moved to pass over the section, but the motion was lost.

Mr. J. BARTOW moved to amend Mr.

WILLIAMS' amendment, by inserting the words "four" and "twenty," in lieu of of "three" and "fifteen;" which was accepted by the mover; and the amendment was not agreed to.

Mr. MORRISON moved to amend the clause by striking out in the 7th line, the words "for six successive weeks previous to said election," and inserting after the word "publishing," the words "in the month of September next."

Mr. LEACH moved the previous question, but the same was not sustained.

Mr. MORRISON modified his amendment by adding, also strike out "fifty," and insert "fifteen."

Mr. WALKER moved to amend the clause by striking out the words "for" and "successive," which was lost.

A division was had on Mr. MORRISON'S proposition, and the first clause of the same was agreed to.

Mr. J. BARTOW moved to amend the second branch of the proposition, by inserting "twenty-five," instead of "fifteen."

A division of the question was had, and the question was first taken on striking out "fifty," in the section, and the same prevailed—yeas 48, nays 14.

And the question being on filling the blank,

Mr. EATON proposed inserting "twenty."

Mr. BRITAIN proposed "thirty."

Mr. WHITE proposed "forty."

Mr. RIX ROBINSON moved the previous question on the section; and the same was demanded, and the main question ordered to be now put.

The question being on filling the blank, and the vote being taken on the highest number first, the motion to fill the same with "forty," was lost—yeas 11, nays 49.

The motion to fill the blank with "thirty" was also disagreed to.

Upon filling the same with "twenty-five," the result was—yeas 37, nays 29.

So the blank was filled with "twenty-five."

The question recurring upon striking out the last clause of the section, the same was not agreed to.

Sec. 15. Any person entitled to vote for members of the Legislature by the constitution and laws now in force, shall, at the said election, be entitled to vote for the

adoption or rejection of this constitution, and for or against the resolution separately submitted, at the places and in the manner provided by law for the election of members of the Legislature.

Sec. 16. At the said general election, a ballot box shall be kept by the several boards of inspectors thereof, for receiving the votes cast for or against the adoption of this constitution; and on the ballots shall be written or printed, or partly written and partly printed, the words "adoption of the constitution—yes," or "adoption of the constitution—no."

Sec. 17. The canvass of the votes cast, and the returns thereof, shall be made by the proper canvassing officers, in the same manner as now provided by law for the canvass and return of the votes cast at an election for Governor, as near as may be. On the — day of —, or within five days thereafter, the Auditor General, State Treasurer and Secretary of State, shall meet at the Capitol, and proceed, in presence of the Governor, to examine and canvass the returns of the said votes, and proclamation shall forthwith be made by the Governor of the result thereof. If it shall appear that a majority of the votes cast upon the question have thereon "Adoption of the constitution—yes," this constitution shall be the supreme law of the State from and after the — day of —; but if a majority of the votes cast upon the question have thereon "Adoption of the constitution—no," the same shall be null and void.

On motion of Mr. ROBERTSON, section seventeen was amended by inserting after the words "near as may be," as follows: "and the returns thereof shall be directed to the Secretary of State."

Mr. J. BARTOW moved to fill the first blank in the section with "16th day of December next;" and the same prevailed.

On motion of Mr. ROBERTSON, the second blank was filled so as to read "1st day of January, 1851."

The article having been gone through with by sections, and being open for general amendment,

Mr. WALKER offered the following to stand as a separate section:

"Resolved, That at the next general election, and at the same time when the votes of the electors shall be taken for the

adoption or rejection of the revised constitution, the additional amendment in the words following, to wit:

"The Legislature shall have no power to pass any act to grant any license for the sale of ardent spirits or other intoxicating liquor,"

"Shall be separately submitted to the electors of this State for their adoption or rejection, in form following, to wit: A separate ballot may be given by every person having the right to vote for the revised constitution, to be deposited in a separate box. Upon the ballots given for the adoption of the said separate amendment shall be written or printed, or partly written and partly printed, the words "No license of the sale of spirituous liquors;" and upon all ballots given against the adoption of the said separate amendment, in like manner, the words "License of the sale of spirituous liquors." And on such ballots shall be written or printed, or partly written and partly printed, the words "Constitution: Spirituous liquors," in such manner that such words shall appear on the outer side of such ballot when folded. If, at said election, a majority of all the votes given for and against the said separate amendment shall contain the words "No license of the sale of spirituous liquors," then the said separate amendment, after the — day of — one thousand eight hundred and —, shall be a separate section of article four of the constitution, in full force and effect, anything in the constitution to the contrary notwithstanding."

Mr. WILLIAMS moved the previous question on the section, and the same being demanded, the main question was ordered to be now put; and the proposition of Mr. WALKER was rejected—yeas 30, nays 34.

Mr. LOVELL moved to strike out section 11 of the article.

Mr. HART moved to adjourn; but the Convention refused to adjourn.

Mr. LOVELL's motion prevailed.

Mr. BRITAIN offered the following to stand as section eleven:

"Reprints of the laws shall only be made after the same shall have been compiled by a person appointed by the Legislature in joint convention, and certified by three persons appointed by the governor,

to be a true and accurate compilation, and of all the general laws of Michigan actually in force. No alteration of the legal import of any law shall be permitted in such compilation. No revision of the laws shall ever be made and submitted to the Legislature."

When, on motion of Mr. BUSH, the Convention adjourned.

—

Afternoon Session.

The Convention was called to order by the PRESIDENT.

The roll being called, a quorum of members answered to their names.

The PRESIDENT announced as the committee under the resolution of this morning, Messrs. BEESON, FRALICK and WHITTEMORE.

The consideration of the article entitled "Schedule" was resumed; and the question being on Mr. BRITAIN'S proposition, to stand as section 11,

Mr. BRITAIN withdrew the same, and proposed the following in lieu thereof:

"No general revision of the laws shall hereafter be made. When a reprint thereof becomes necessary, the Legislature, in joint convention, shall appoint a suitable person to collect together such acts and parts of acts as are in force, and without alteration arrange them under appropriate heads and titles. The laws so arranged shall be submitted to — commissioners, appointed by the Governor, for examination; and if certified by them to be a correct compilation of all general laws in force, shall be printed in such manner as shall be provided by law."

Mr. MORRISON moved to strike out "commissioners," and insert "Attorney General."

Which was not agreed to.

On motion of Mr. BRITAIN, the blank before "commissioners" was filled with "two."

On the adoption of the section, the yeas and nays were had and resulted—yeas 33, nays 30.

So the same was agreed to.

On motion of Mr. McCLELLAND, section 17 was amended by inserting in the eighth line, after "1851," the words "except as herein otherwise provided."

On motion of Mr. WHIPPLE, the following was added as a separate section of the article:

"The causes pending and undisposed of in the late court of chancery, at the time of the adoption of this constitution, shall continue to be heard and determined by the judges of the Supreme Court. But the Legislature shall, at its session in 1851, provide by law for the transfer of said causes that may remain undisposed on the first Monday of — next, to the Supreme or Circuit Court, established by this constitution, or require that the same may be heard and determined by the circuit judges."

On motion of Mr. WILLIAMS, the following, to stand as section five, was adopted:

"Sec. 5. A Governor and Lieutenant Governor shall be chosen under the existing constitution and laws, to serve after the expiration of the present gubernatorial term, until superseded by this constitution."

Mr. WILLIAMS offered the following to stand as section six:

"The senators and representatives chosen at the general election in November, 1850, shall hold their offices till superseded by a Legislature chosen under this constitution."

Mr. ROBERTSON offered the following substitute for the foregoing:

"Sec. 6. The members of the Senate and House of Representatives of the Legislature of 1851, shall continue in office, under the provisions of law, until superseded by their successors, elected and qualified under this constitution."

And the same was accepted by Mr. WILLIAMS, and adopted by the Convention.

On motion of Mr. ROBERTSON, the following was added to section 17:

"And in case of the adoption of this constitution, said officers shall immediately, or as soon thereafter as practicable, proceed to open the statement of votes returned from the several counties for judges of the Supreme Court and State officers, under the act entitled "an act to amend the revised statutes and to provide for the election of certain officers by the people, in pursuance to an amendment of the constitution," approved February 16, 1850, and

shall ascertain, determine and certify the results of the election for said officers, under said act, in the same manner, as near as may be, as is now provided by law in regard to the election of Representatives in Congress. And the several judges and officers so ascertained to have been elected, may be qualified and enter upon the duties of their respective offices on the first Monday of January next, or as soon thereafter as practicable."

Mr. MOORE moved the following additional section to the article:

"From and after the year 1855, the Legislature shall provide by law a uniform system for the collection of all taxes throughout the State."

Mr. BRITAIN proposed the following substitute for the foregoing:

"The Legislature shall, on or before 1855, provide that all taxes shall be collected in the respective counties, and that the State tax shall have precedence over every other tax; such law shall protect the interests of the State in all lands liable to the State in consequence of non-payment of taxes."

Mr. McCLELLAND moved the previous question, and the same being demanded, the main question was ordered to be now put.

The substitute of Mr. BRITAIN was not agreed to.

The proposition of Mr. MOORE was rejected—yeas 6, nays 60.

Mr. BRITAIN offered the following as an additional section:

"The Legislature shall, on or before 1855, provide that all taxes, except specific taxes, shall be collected in the respective counties, and that the State tax shall have precedence over every other tax. Such law shall protect the interest of the State in all lands liable to the State in consequence of the non-payment of taxes."

Mr. DANFORTH moved to strike out "except specific taxes."

Mr. McCLELLAND moved the previous question, and the same being demanded, the main question was ordered to be now put.

Mr. DANFORTH's amendment was lost—yeas 12, nays 49.

Mr. BRITAIN's proposition was rejected by yeas and nays, as follows:

YEAS—Messrs. W. Adams, Barnard,

Beeson, Britain, Asahel Brown, Butterfield, Carr, Chandler, Conner, Daniels, Edmunds, Gale, Green, Hart, Harvey, Leach, Lee, Lovell, Moore, Morrison, O'Brien, Orr, N. Pierce, J. D. Pierce, Prevost, Soule, Warden, White, Whittemore, Woodman—30.

NAYS—Messrs. Alvord, Arzeno, Axford, J. Bartow, H. Bartow, Beardsley, Ammon Brown, Burns, Bush, Chapel, Choate, Church, Comstock, Cornell, Crouse, Danforth, Desnoyers, Eaton, Fralick, Gardiner, Gibson, Hanscom, Kingsley, Kinne, Marvin, McClelland, Mosher, Mowry, Newberry, Redfield, Robertson, Rix Robinson, Town, Van Valkenburgh, Walker, Webster, Whipple, President—38.

On motion of Mr. McCLELLAND, the following was added as a new section to the article:

"Sec. —. The term of office of Governor and Lieutenant Governor shall commence on the first Monday of January after the election thereof."

On motion of Mr. WHIPPLE, the article was referred to the committee on arrangement and phraseology, and Mr. ROBERTSON was added as an additional member to that committee.

Mr. McCLELLAND, from the committee on arrangement and phraseology, reported

ARTICLE I.

BOUNDARIES.

The State of Michigan consists of and has jurisdiction over the territory embraced within the following boundaries, to wit: Commencing at a point on the eastern boundary line of the State of Indiana, where a direct line drawn from the southern extremity of Lake Michigan to the most northerly cape of the Maumee Bay, shall intersect the same—said point being the north-west corner of the State of Ohio, as established by act of Congress, entitled "an act to establish the northern boundary line of the State of Ohio, and to provide for the admission of the State of Michigan into the Union upon the conditions therein expressed," approved June fifteenth, one thousand eight hundred and thirty-six; thence with said boundary line of the State of Ohio, till it intersects the boundary line between the United States and Canada, in Lake Erie; thence with said boundary line between the United States and

Canada, through the Detroit river, Lake Huron and Lake Superior, to a point where the said line last touches Lake Superior; thence in a direct line through Lake Superior to the mouth of the Montreal river; thence through the middle of the main channel of the said river Montreal to the head waters thereof; thence in a direct line to the centre of the channel between Middle and South Islands, in the Lake of the Desert; thence in a direct line to the southern shore of Lake Brule; thence along said southern shore and down the river Brule to the main channel of the Menominee river; thence down the centre of the main channel of the same to the centre of the most usual ship channel of the Green Bay of Lake Michigan; thence through the centre of the most usual ship channel of the said Bay, to the middle of Lake Michigan; thence through the middle of Lake Michigan to the northern boundary of the State of Indiana, as that line was established by the act of Congress of the nineteenth of April, eighteen hundred and sixteen; thence due east with the north boundary line of the said State of Indiana to the north-east corner thereof; and thence south with the eastern boundary line of Indiana to the place of beginning.

And the same was adopted as one of the articles of the constitution.

Mr. McCLELLAND, from the same committee, reported the following as a caption for the constitution:

"The People of the State of Michigan do ordain this Constitution."

And the same was adopted.

Mr. McCLELLAND, from the same committee, reported

ARTICLE II.

SEAT OF GOVERNMENT.

Sec. 1. The seat of government shall be in Lansing, where it is now located.

Mr. McCLELLAND, from the same committee, reported

ARTICLE III.

DIVISION OF THE POWERS OF GOVERNMENT.

Sec. 1. The powers of Government are divided into three departments: the legislative, executive and judicial.

Sec. 2. No person belonging to one of these departments shall exercise the powers pro-

perly belonging to another, except in the cases expressly provided for in this constitution.

The amendments were concurred in.

On motion of Mr. McCLELLAND, article 3 was amended by striking out "for," in the 4th line of section 2.

On motion of Mr. McCLELLAND, it was ordered that the articles as reported by the committee on arrangement and phraseology, with amendments as concurred in, be referred to the committee on enrollment.

Mr. HANSCOM offered the following:

Resolved, That Thomas Palmer and

Holden be and they are hereby appointed Messengers of this Convention, from this day to the end of the session.

Which was not agreed to.

On motion of Mr. BUSH, the Convention adjourned.

WEDNESDAY, (56th day,) August 14.

The Convention met at the usual hour and was called to order by the PRESIDENT.

Prayer by Rev. Mr. SANFORD.

RESOLUTIONS.

Mr. HART offered the following:

Resolved, That a committee of eight be appointed, whose duty it shall be to recommend a plan for dividing the State, exclusive of the upper peninsula, into eight judicial circuits, with instructions to report as soon as practicable.

Mr. W. ADAMS moved to strike out "as soon as practicable," and insert "this afternoon."

The amendment was accepted by the mover.

Mr. CROUSE moved to indefinitely postpone the resolution; but the motion was lost.

Mr. WALKER moved to strike out "a committee of eight," and insert "the committee on schedule;" which was lost.

Mr. WOODMAN moved to strike out "eight," and insert "eleven;" which was lost.

The resolution was then adopted—yeas 37, nays 31.

Mr. GARDINER offered the following:

Resolved, That C. J. Fox, one of the Reporters of this Convention, be and he hereby is authorized and required to su-

perintend the proof reading and publication of the debates of the Convention, and to complete the index of the same.

On motion of Mr. FRALICK, the resolution was laid upon the table.

On motion of Mr. McCLELLAND,

Resolved, That the committee on printing be instructed to inquire into the propriety of publishing the old and new constitutions in the Dutch, German, and French languages.

On motion of Mr. McCLELLAND, the following resolutions were adopted:

Resolved, That there be allowed to JOHN SWEGLES, Jr., Secretary of this Convention, the sum of two hundred and fifty dollars, for compiling and preparing for publication, making index, and superintending the printing of the journals and documents of the Convention, to be paid on the certificate of the Secretary of State that the work is correctly done.

Resolved, That there be allowed to HORACE S. ROBERTS, one of the Secretaries of this Convention, the sum of eight cents per folio for making a fair copy of the journals of the Convention, to be paid on the certificate of the Secretary of State (who shall certify the number of folios) that the work has been correctly done and deposited in his office.

Mr. BRITAIN moved to reconsider the last vote, which was lost—yeas 32, nays 36.

On motion of Mr. GARDINER,

Resolved, That there be allowed to A. T. Welch, George W. Osborn, Henry Starkey, A. J. Vandenberg, Stephen P. Mead, Jonas H. Titus, Jr., O. S. Case, F. M. Creps, J. J. Whitman, and Wm. Gumbrecht, the sum of four dollars each; and to J. Reeves, Charles Holbrook, Mary Teeter, and Maria Balch, the sum of two dollars each, for extra services in the printing office and bindery; and that a certificate be issued therefor to the chairman of the printing committee.

Mr. CRARY, from the committee on arrangement and phraseology, reported back

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

Section 1. The legislative power is vested in a Senate and House of Representatives.

Sec. 2. The Senate shall consist of thirty-two members. Senators shall be elected for two years, and by single districts. Such districts shall be numbered from one to thirty-two inclusive; each of which shall choose one Senator. No county shall be divided in the formation of senate districts, except such county shall be equitably entitled to two or more Senators.

Sec. 3. The House of Representatives shall consist of not less than sixty-four, nor more than one hundred members. Representatives shall be chosen for two years, and by single districts. Each representative district shall contain, as nearly as may be, an equal number of white inhabitants, and civilized persons of Indian descent not members of any tribe, and shall consist of convenient and contiguous territory. But no township or city shall be divided in the formation of a representative district. When any township or city shall contain a population which entitles it to more than one Representative, then such township or city shall elect by general ticket the number of Representatives to which it is entitled. Each county hereafter organized, with such territory as may be attached thereto, shall be entitled to a separate Representative when it has attained a population equal to a moiety of the ratio of representation. In every county entitled to more than one Representative, the board of supervisors shall assemble at such time and place as the Legislature shall prescribe, and divide the same into representative districts, equal to the number of Representatives to which such county is entitled by law, and shall cause to be filed in the offices of Secretary of State and clerk of such county, a description of such representative districts, specifying the number of each district, and the population thereof, according to the last preceding enumeration.

Sec. 4. The Legislature shall provide by law for an enumeration of the inhabitants in the year eighteen hundred and fifty-five, and every ten years thereafter; and at the first session after each enumeration so made, and also at the first session after each enumeration by the authority of the United States, the Legislature shall apportion anew the Senators and Representatives among the counties and districts, according to the number of white

inhabitants and civilized persons of Indian descent, not members of any tribe. Each apportionment, and the division into representative districts by any board of supervisors, shall remain unaltered until the return of another enumeration.

Sec. 5. Senators and Representatives shall be citizens of the United States, and qualified electors in the respective counties and districts which they represent. A removal from their respective counties or districts shall be deemed a vacation of their seats.

Sec. 6. No person holding any office under the United States or this State, or any county office, except notaries public, officers of the militia, and officers elected by townships, shall be eligible to or have a seat in either house of the Legislature; and all votes given for any such person shall be void.

Sec. 7. Senators and Representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest. They shall not be subject to any civil process during the session of the Legislature, or for fifteen days next before the commencement and after the termination of each session; they shall not be questioned in any other place for any speech in either house.

Sec. 8. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as each house may prescribe.

Sec. 9. Each house shall choose its own officers, determine the rules of its proceedings, and judge of the qualifications, election and returns of its members; and may, with the concurrence of two-thirds of all the members elected, expel a member. No member shall be expelled a second time for the same cause; nor for any cause known to his constituents antecedent to his election; the reason for such expulsion shall be entered upon the journal, with the names of the members voting on the question.

Sec. 10. Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy. The yeas and nays of the members of either house, on any question, shall be entered on the journal at the re-

quest of one-fifth of the members elected. Any member of either house may dissent from and protest against any act, proceeding or resolution which he may deem injurious to any person or the public, and have the reason of his dissent entered on the journal.

Sec. 11. In all elections by either house, or in joint convention, the votes shall be given viva voce. All votes on nominations to the Senate, shall be taken by yeas and nays, and published with the journal of its proceedings.

Sec. 12. The doors of each house shall be open, unless the public welfare requires secrecy. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than where the Legislature may then be in session.

Sec. 13. Bills may originate in either house of the Legislature.

Sec. 14. Every bill and concurrent resolution, except of adjournment, passed by the Legislature, shall be presented to the Governor before it becomes a law. If he approves, he shall sign it; but if not, he shall return it with his objections to the house in which it originated, which shall enter the objections at large upon their journal, and reconsider it. On such reconsideration, if two-thirds of the members elected agree to pass the bill, it shall be sent with the objections to the other house, by which it shall be reconsidered. If approved by two-thirds of the members elected to that house, it shall become a law. In such case, the vote of both houses shall be determined by yeas and nays; and the names of the members voting for and against the bill shall be entered on the journals of each house respectively. If any bill be not returned by the Governor within ten days, Sundays excepted, after it has been presented to him, the same shall become a law, in like manner as if he had signed it, unless the Legislature, by their adjournment, prevent its return; in which case it shall not become a law. The Governor may approve, sign, and file in the office of the Secretary of State, within five days after the adjournment of the Legislature, any act passed during the last five days of the session; and the same shall become a law.

Sec. 15. The compensation of the mem-

bers of the Legislature shall be three dollars a day for actual attendance and when absent on account of sickness, for the first sixty days of the session of 1851, and for the first forty days of every subsequent session, and nothing thereafter. When convened in extra session their compensation shall be three dollars a day for the first twenty days, and nothing thereafter; and they shall legislate on no other subjects than those expressly stated in the Governor's proclamation, or submitted to them by special message. They shall be entitled to ten cents, and no more, for every mile actually traveled, in going to and returning from the place of meeting, on the usually traveled route; and for stationery and newspapers not exceeding five dollars for each member during any session. Each member shall be entitled to one copy of the laws, journals and documents of the Legislature of which he was a member; but shall not receive, at the expense of the State, books, newspapers, or other perquisites of office, not expressly authorized by this constitution.

Sec. 16. The Legislature may provide by law for the payment of postage on all mailable matter received by its members and officers during the session of the Legislature, but not on any sent or mailed by them.

Sec. 17. The President of the Senate and the Speaker of the House of Representatives shall be entitled to the same per diem compensation and mileage as members of the Legislature, and no more.

Sec. 18. No person elected a member of the Legislature shall receive any civil appointment within this State, or to the Senate of the United States, from the Governor, the Governor and Senate, from the Legislature, or any other State authority, during the term for which he is elected. All such appointments, and all votes given for any person so elected for any such office or appointment, shall be void. No member of the Legislature shall be interested, directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the time for which he is elected, and for one year thereafter.

Sec. 19. Every bill and joint resolution shall be read three times in each house before the final passage thereof. No bill

or joint resolution shall become a law without the concurrence of a majority of all the members elected to each house. On the final passage of all bills the vote shall be by yeas and nays, and entered on the journal.

Sec. 20. No law shall embrace more than one object, which shall be expressed in its title. No public act shall take effect or be in force until the expiration of ninety days from the end of the session at which the same is passed, unless the Legislature shall otherwise direct, by a two-thirds vote of the members elected to each house.

Sec. 21. The Legislature shall not grant nor authorize extra compensation to any public officer, agent or contractor, after the service has been rendered or the contract entered into.

Sec. 22. The Legislature shall provide by law that the fuel and stationery furnished for the use of the State, the printing and binding the laws and journals, all blanks, paper and printing for the executive departments, and all other printing ordered by the Legislature, shall be let by contract to the lowest bidder or bidders, who shall give adequate and satisfactory security for the performance thereof. The Legislature shall prescribe by law the manner in which the State printing shall be executed, and the accounts rendered therefor; and shall prohibit all charges for constructive labor. The Legislature shall not rescind nor alter such contract, nor release the person or persons taking the same, or his or their sureties, from the performance of any of the conditions of the contract. No member of the Legislature nor officer of the State shall be interested directly or indirectly in any such contract.

Sec. 23. The Legislature shall not authorize, by private or special law, the sale or conveyance of any real estate belonging to any person; nor vacate nor alter any road laid out by commissioners of highways, or any street in any city or village, or in any recorded town plat.

Sec. 24. The Legislature may authorize the employment of a chaplain for the State Prison; but no money shall be appropriated for payment of any religious services in either house of the Legislature.

Sec. 25. No law shall be revised, altered

or amended by reference to its title only; but the act revised, and the section or sections of the act altered or amended shall be re-enacted and published at length.

Sec. 26. Divorces shall not be granted by the Legislature.

Sec. 27. The Legislature shall not authorize any lottery, nor permit the sale of lottery tickets.

Sec. 28. No new bill shall be introduced into either house during the last three days of the session, without the unanimous consent of the house in which it originates. In case of a contested election, the person only shall receive from the State per diem compensation and mileage who is declared to be entitled to a seat by the house in which the contest takes place.

Sec. 29. No collector, holder nor disburser of public moneys, shall have a seat in the Legislature or be eligible to any office of trust or profit under this State, until he shall have accounted for and paid over, as provided by law, all sums for which he may be liable.

Sec. 30. The Legislature shall not audit nor allow any private claim or account.

Sec. 31. The Legislature, on the day of final adjournment, shall adjourn at twelve o'clock at noon.

Sec. 32. The Legislature shall meet at the seat of government on the first Wednesday in February next, and on the first Wednesday in January of every second year thereafter, and at no other place or time, unless provided in this constitution.

Sec. 33. The election of Senators and Representatives, pursuant to the provisions of this constitution, shall be held on the Tuesday succeeding the first Monday of November, in the year 1852, and on the Tuesday succeeding the first Monday of November of every second year thereafter.

Sec. 34. The Legislature shall not establish a State Paper. Every newspaper in the State which shall publish all the general laws of any session within forty days of their passage, shall be entitled to receive a sum not exceeding fifteen dollars therefor.

Sec. 35. The Legislature shall provide for the speedy publication of all statute laws of a public nature, and of such judicial decisions as it may deem expedient.

All laws and judicial decisions shall be free for publication by any person.

Sec. 36. The Legislature may declare the cases in which any office shall be deemed vacant, and also the manner of filling the vacancy, where no provision is made for that purpose in this constitution.

Sec. 37. The Legislature may confer upon organized townships, incorporated cities and villages, and upon the board of supervisors of the several counties, such powers of a local, legislative and administrative character as they may deem proper.

Sec. 38. The Legislature shall pass no law to prevent any person from worshipping Almighty God according to the dictates of his own conscience; or to compel any person to attend, erect or support any place of religious worship, or to pay tithes, taxes or other rates for the support of any minister of the gospel.

Sec. 39. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the State be appropriated for any such purposes.

Sec. 40. The Legislature shall not diminish or enlarge the civil or political rights, privileges and capacities of any person, on account of his opinion or belief concerning matters of religion.

Sec. 41. No law shall ever be passed to restrain or abridge the liberty of speech or of the press; but every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of such right.

Sec. 42. The Legislature shall pass no bill of attainder, ex post facto law, or law impairing the obligation of contracts.

Sec. 43. The privilege of the writ of habeas corpus remains, and shall not be suspended by the Legislature, except in case of rebellion or invasion the public safety requires it.

Sec. 44. The assent of two-thirds of the members elected to each house of the Legislature shall be requisite to every bill appropriating the public money or property for local or private purposes.

Sec. 45. The Legislature may authorize a trial by a jury of a less number than twelve men.

Sec. 46. The Legislature shall not pass

any act authorizing the grant of license for the sale of ardent spirits or other intoxicating liquors.

Sec. 47. The style of the laws shall be "The People of the State of Michigan enact."

On motion of Mr. CRARY, section 4 was amended by inserting between "shall" and "apportion," in the 5th line, the words "re-arrange the Senate districts and;" and also by striking out the words "Senators and," in line 6.

On motion of Mr. McCLELLAND, the rule being suspended, section 4 was amended by striking out at the beginning of the section, "1855," and inserting in lieu thereof, "1854."

On motion of Mr. BRITAIN, section 28 was ordered divided so as to make two sections.

On motion of Mr. WILLIAMS, section 8 was amended by striking out in line 9, the word "and," and inserting "nor."

On motion of Mr. BARNARD, section 22 was amended by inserting before "fuel," in the first line, the words "furnishing of," and also by striking out "furnished," after "stationery."

On motion of Mr. CRARY, section 22 was amended by striking out in the 9th line, the words "the Legislature," and inserting "they."

With the foregoing amendments, made by the unanimous consent of the Convention, the article was referred to the committee on enrollment.

Mr. CRARY, from the committee on arrangement and phraseology, reported

ARTICLE V.

EXECUTIVE DEPARTMENT.

Sec. 1. The executive power is vested in a Governor, who shall hold his office for two years. A Lieutenant Governor shall be chosen for the same term.

Sec. 2. No person shall be eligible to the office of Governor or Lieutenant Governor who has not been five years a citizen of the United States, and a resident of this State two years next preceding his election; nor shall any person be eligible to either office who has not attained the age of thirty years.

Sec. 3. The Governor and Lieutenant Governor shall be elected at the times and places of choosing members of the Legis-

lature. The person having the highest number of votes for Governor or Lieutenant Governor shall be elected. In case two or more persons shall have an equal and the highest number of votes for Governor or Lieutenant Governor, the Legislature shall, by joint vote, choose one of such persons.

Sec. 4. The Governor shall be commander-in-chief of the military and naval forces; and may call out such forces to execute the laws, to suppress insurrections and to repel invasion.

Sec. 5. He shall transact all necessary business with officers of government, and may require information, in writing, from the officers of the executive department upon any subject relating to the duties of their respective offices.

Sec. 6. He shall take care that the laws be faithfully executed.

Sec. 7. He may convene the Legislature on extraordinary occasions.

Sec. 8. He shall give to the Legislature, and at the close of his official term to the next Legislature, information by message, of the condition of the State, and recommend such measures to them as he shall deem expedient.

Sec. 9. He may convene the Legislature at some other place, when the seat of government becomes dangerous from disease or a common enemy.

Sec. 10. He shall issue writs of election to fill such vacancies as occur in the Senate and House of Representatives.

Sec. 11. He may grant reprieves, commutations and pardons, after conviction, for all offences except treason and cases of impeachment, upon such conditions and with such restrictions and limitations as he may think proper, subject to such regulations as are provided by law, relative to the manner of applying for pardons. Upon conviction for treason, he may suspend the execution of the sentence until the case shall be reported to the Legislature at its next session, when the Legislature shall either pardon or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall communicate to the Legislature at each session, information of each case of reprieve, commutation or pardon granted, and the reasons therefor.

Sec. 12. In case of the impeachment of the Governor, his removal from office,

death, inability, resignation or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant Governor, for the residue of the term, or until the disability ceases. When the Governor shall be out of the State in time of war, at the head of a military force thereof, he shall continue commander-in-chief of all the military force of the State.

Sec. 13. During a vacancy in the office of Governor, if the Lieutenant Governor die, resign, be impeached, displaced, be incapable of performing the duties of his office, or absent from the State, the President *pro tempore* of the Senate shall act as Governor, until the vacancy be filled, or the disability cease.

Sec. 14. The Lieutenant Governor shall, by virtue of his office, be President of the Senate. In committee of the whole he may debate all questions; and when there is an equal division he shall give the casting vote.

Sec. 15. No member of Congress, nor any person holding office under the United States, or this State, shall execute the office of Governor.

Sec. 16. No person elected Governor or Lieutenant Governor shall be eligible to any office or appointment from the Legislature, or either house thereof, during the time for which he was elected. All votes for either of them, for any such office, shall be void.

Sec. 17. Whenever a vacancy occurs in the office of Governor or Lieutenant Governor, the person executing the duties of the office of Governor shall give notice thereof by proclamation; and the electors shall, on the Tuesday succeeding the first Monday of November thereafter, choose a person to fill such vacancy.

Sec. 18. The Lieutenant Governor and President of the Senate *pro tempore*, when performing the duties of Governor, shall receive the same compensation as the Governor.

Sec. 19. All official acts of the Governor, the approval of the laws excepted, shall be authenticated by the great seal of the State, which shall be kept by the Secretary of State.

Sec. 20. All commissions issued to persons holding office under the provisions of this constitution, shall be in the name and by the authority of the people of the State

of Michigan, sealed with the great seal of the State, signed by the Governor and countersigned by the Secretary of State.

On motion of Mr. BRITAIN, section 11 was amended by striking out in line 4, the word "such," and also the words "as are."

On motion of Mr. J. D. PIERCE, the rule was suspended in order to entertain a motion to strike out section 17.

And the question being on striking out the section,

Mr. ROBERTSON moved to amend the same by substituting the word "and" in lieu of the word "or," between "Governor and Lieutenant Governor."

And the motion prevailed.

The section was then stricken out; and the article, with the foregoing amendments, was referred to the committee on enrollment.

Mr. McCLELLAND, from the committee on arrangement and phraseology, reported

ARTICLE VI.

JUDICIAL DEPARTMENT.

Section 1. The judicial power is vested in one Supreme Court, in Circuit Courts, in probate courts, and in justices of the peace. Municipal courts of civil and criminal jurisdiction may be established by the Legislature in cities.

Sec. 2. For the term of six years, and thereafter, until the Legislature otherwise provide, the judges of the several Circuit Courts shall be judges of the Supreme Court, four of whom shall constitute a quorum. A concurrence of three shall be necessary to a final decision. After six years, the Legislature may provide by law for the organization of a separate Supreme Court, with the jurisdiction and powers prescribed in this constitution, to consist of one chief justice and three associate justices, to be chosen by the electors of the State. Such Supreme Court, when so organized, shall not be changed or discontinued by the Legislature for eight years thereafter. The judges thereof shall be so classified that but one of them shall go out of office at the same time. Their term of office shall be eight years.

Sec. 3. The Supreme Court shall have a general superintending control over all inferior courts, and shall have power to

issue writs of error, habeas corpus, mandamus, injunction, quo warranto, procedendo, and other original and remedial writs, and to hear and determine the same. In all other cases it shall have appellate jurisdiction only.

Sec. 4. Four terms of the Supreme Court shall be held annually, at such times and places as may be designated by law.

Sec. 5. The Supreme Court shall, by general rules, establish, modify and amend the practice in such court and in the Circuit Courts, and simplify the same. The Legislature shall, as far as practicable, abolish distinctions between law and equity proceedings. The office of master in chancery is prohibited.

Sec. 6. The State shall be divided into eight judicial circuits; in each of which the electors thereof shall elect one circuit judge, who shall hold his office for the term of six years and until his successor is elected and qualified.

Sec. 7. The Legislature may alter the limits of circuits or increase the number of the same. No alteration or increase shall have the effect to remove a judge from office. In every additional circuit established, the judge shall be elected by the electors of such circuit, and his term of office shall continue as provided in this constitution for judges of the Circuit Court.

Sec. 8. The Circuit Courts shall have original jurisdiction in all matters, civil and criminal, not excepted in this constitution, and not prohibited by law; and appellate jurisdiction from all inferior courts and tribunals, and a supervisory control of the same. They shall also have power to issue writs of habeas corpus, mandamus, injunction, quo warranto, certiorari, and other writs necessary to carry into effect their orders, judgments and decrees, and give them a general control over inferior courts and tribunals within their respective jurisdictions.

Sec. 9. Each of the judges of the Circuit Courts shall receive a salary, payable quarterly. They shall receive no fees or perquisites of office, or other compensation; and shall be ineligible to any other than a judicial office during the term for which they are elected, and for one year thereafter. All votes for any person elected a judge, for any office other than the

one held by them, given either by the Legislature or the people, shall be void.

Sec. 10. The Supreme Court may appoint a reporter of its decisions. The decisions of the Supreme Court shall be in writing, and signed by the judges concurring therein. Any judge dissenting therefrom shall give the reasons of such dissent in writing, under his signature. All such opinions shall be filed in the office of the clerk of the Supreme Court. The judges of the Circuit Court, within their respective jurisdictions, may fill vacancies in the office of county clerk and of prosecuting attorney; but no judge of the Supreme Court, or Circuit Court, shall exercise any other power of appointment to public office.

Sec. 11. A Circuit Court shall be held at least twice in each year in every county organized for judicial purposes, and four times in each year in counties containing ten thousand inhabitants. Judges of the Circuit Courts may hold courts for each other, and shall do so when required by law.

Sec. 12. The clerk of each county organized for judicial purposes shall be the clerk of the Circuit Court of such county, and of the Supreme Court when held within the same.

Sec. 13. In each of the counties organized for judicial purposes, there shall be a Court of Probate. The judge of such court shall be elected by the electors of the county in which he resides, and shall hold his office for four years, and until his successor is elected and qualified. The jurisdiction, powers and duties of such court shall be prescribed by law.

Sec. 14. When a vacancy occurs in the office of judge of the Supreme, Circuit or Probate Court, it shall be filled by appointment of the Governor, which shall continue until a successor is elected and qualified. When elected, such successor shall hold his office the residue of the unexpired term.

Sec. 15. The Supreme Court, the Circuit and Probate Courts of each county, shall be courts of record, and shall each have a common seal.

Sec. 16. The Legislature may provide by law for the election of one or more persons in each organized county, who may be vested with judicial powers not exceed-

ing those of a judge of the Circuit Court at chambers.

Sec. 17. There shall be not exceeding four justices of the peace in each organized township. They shall be elected by the electors of the township, and shall hold their offices for four years, and until their successors are elected and qualified. At the first election in any township, they shall be classified as shall be prescribed by law. A justice elected to fill a vacancy shall hold for the residue of the unexpired term. The Legislature may increase the number of justices in cities.

Sec. 18. In civil cases, justices of the peace shall have exclusive jurisdiction to the amount of one hundred dollars, and concurrent jurisdiction to the amount of three hundred dollars, which may be increased to five hundred dollars, with such exceptions and restrictions as may be provided by law. They shall also have such criminal jurisdiction and perform such duties as shall be prescribed by the Legislature.

Sec. 19. Judges of the Supreme Court, circuit judges, and justices of the peace, shall be conservators of the peace within their respective jurisdictions.

Sec. 20. The first election of judges of the Circuit Courts shall be held on the first Monday in April, 1851, and every sixth year thereafter. Whenever an additional circuit is created, such provision may be made as to hold the subsequent election of such additional judge at the regular elections herein provided.

Sec. 21. The first election of judges of the Probate Courts shall be held on the Tuesday succeeding the first Monday of November, 1852, and every fourth year thereafter.

Sec. 22. Whenever a judge shall remove beyond the limits of the jurisdiction for which he was elected, and a justice of the peace from the township in which he was elected, or who, by a change in the boundaries of such township, shall be placed without the same, shall be deemed to have vacated their respective offices.

Sec. 23. The Legislature may establish courts of conciliation, with such powers and duties as shall be prescribed by law.

Sec. 24. Any suitor in any court of this State shall have the right to prosecute or defend his suit, either by his own proper

person, or by an attorney or agent of his choice.

Sec. 25. In all prosecutions for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the party shall be acquitted. The jury shall have the right to determine the law and the fact.

Sec. 26. The person, houses, papers and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things, shall issue without describing them, nor without probable cause, supported by oath or affirmation.

Sec. 27. The right of trial by jury shall remain, but shall be deemed to be waived in all civil cases, unless demanded by one of the parties in such manner as shall be prescribed by law.

Sec. 28. In every criminal prosecution the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than twelve men in all courts not of record; to be informed of the nature of the accusation; to be confronted by the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and have the assistance of counsel for his defence.

Sec. 29. No person, after acquittal upon the merits, shall be tried for the same offence. All persons shall, before conviction, be bailable by sufficient sureties, except for murder and treason when the proof is evident or the presumption great.

Sec. 30. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless upon the testimony of two witnesses to the same overt act, or on confession in open court.

Sec. 31. Excessive bail shall not be required; excessive fines shall not be imposed; and cruel and unusual punishment shall not be inflicted, nor shall witnesses be unreasonably detained.

Sec. 32. No person shall be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty or property, without due process of law.

Sec. 33. No person shall be imprisoned for debt, arising out of or founded on a

contract, express or implied, except in cases of fraud or breach of trust, or of moneys collected by public officers or in any professional employment. No person shall be imprisoned for a militia fine in time of peace.

Sec. 34. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

Sec. 35. The style of all process shall be: "In the name of the people of the State of Michigan."

On motion of Mr. HANSCOM, the word "separate" was stricken out of the sixth line of section two.

On motion of Mr. WHIPPLE, section three was amended by striking out in line three, the word "injunction."

On motion of Mr. MORRISON, section nine was amended by striking out in the sixth line, the words "the one held by them," and inserting in lieu thereof the word "judicial."

On motion of Mr. McCLELLAND, the same section was amended by substituting for the letter "a," before "judge," the word "such."

Mr. CROUSE moved to suspend the rule, for the purpose of striking out "for one year thereafter," in section nine; but the Convention refused to suspend the rule.

On motion of Mr. WILLIAMS, section nine was amended by striking out the words "shall receive no fees or perquisites of office or other compensation; and."

A discussion arising as to the alterations made by the committee to sections 17 and 18 of the article, the report regarding section 17 was concurred in.

On motion of Mr. CRARY, the section was amended by inserting after the word "hold," the words "his office."

And the question being upon concurring in section 18, as reported by the committee on arrangement and phraseology, the same was concurred in, as follows,

YEAS—Messrs. W. Adams, Anderson, Arzeno, Barnard, H. Bartow, J. Bartow, Beeson, Britain, Ammon Brown, Burns, Bush, Butterfield, Chandler, Chapel, Choate, Church, Conner, Cornell, Crary, Danforth, Daniels, Edmunds, Fralick, Gardiner, Gibson, Hanscom, Harvey, Hascall, Kinne, Marvin, McClelland, Morrison, Mosher, Mowry, Orr, J. D. Pierce, Redfield, Roberts, Robertson, E. S. Robinson, Rix

Robinson, Skinner, Soule, Sturgis, Town, Van Valkenburgh, Walker, Warden, White, Whipple, Whittemore, Williams—52.

NAYS—Messrs. Alvord, Axford, Beardsley, Asahel Brown, Carr, Comstock, Crouse, Desnoyers, Eaton, Gale, Hart, Lee, Lovell, Moore, Newberry, O'Brien, N. Pierce, Prevost, Wait, Woodman, President—31.

On motion of Mr. EATON, the Convention adjourned.

Afternoon Session.

The President called the Convention to order.

A quorum of members being in attendance,

The CHAIR announced the following committee under resolution of this morning: Messrs. HART, ALVORD, HANSCOM, CORNELL, COMSTOCK, BRITAIN, HASCALL and RIX ROBINSON.

The consideration of the article "Judicial Department," as reported by the committee on arrangement and phraseology, was resumed.

On motion of Mr. LOVELL, section 20 was amended by striking out the words "such" and "may," and inserting in lieu of the latter, the word "shall."

On motion of Mr. CHURCH, section 22 was amended by striking out "who," in 3d line, and inserting in the 4th line, between "same" and "shall," the word "they."

On motion of Mr. LEACH, the word "and," before "cruel," in section 31, was stricken out.

The article was then referred, with the foregoing amendments, to the committee on enrollment.

Mr. McCLELLAND, from the committee on arrangement and phraseology, reported

ARTICLE VII.

ELECTIONS.

Sec. 1. In all elections every white male citizen, every white male inhabitant residing in the State on the 24th day of June, 1835, every white male inhabitant residing in this State on the 1st day of January, 1850, or who has resided in this State two years and six months, and declared his in-

tention to become a citizen of the United States, pursuant to the laws thereof, six months preceding an election, and every civilized male inhabitant of Indian descent, a native of the United States, and not a member of any tribe, shall be an elector and entitled to vote; but no such citizen or inhabitant shall be an elector or entitled to vote at any election, unless he shall be above the age of twenty-one years, and has resided in this State three months, and in the township or ward in which he offers to vote ten days next preceding such election.

Sec. 2. All votes shall be given by ballot, except for such township officers as may be authorized by law to be otherwise chosen.

Sec. 3. Every elector, in all cases except treason, felony, or breach of the peace, shall be privileged from arrest during his attendance at election, and in going to and returning from the same.

Sec. 4. No elector shall be obliged to do militia duty on the day of election, except in time of war or public danger, or attend court as a suitor or witness.

Sec. 5. No elector shall be deemed to have gained or lost a residence by reason of his being employed in the service of the United States or of this State; nor while engaged in the navigation of the waters of this State or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse or other asylum at public expense; nor while confined in any public prison.

Sec. 6. Laws may be passed to preserve the purity of elections, and guard against abuses of the elective franchise.

Sec. 7. No soldier, seaman, nor marine in the army or navy of the United States, shall be deemed a resident of this State in consequence of being stationed in any military or naval place within the same.

Sec. 8. Any inhabitant who may hereafter be engaged in a duel, either as principal or accessory before the fact, shall be disqualified from holding any office under the constitution and laws of this State, and shall not be permitted to vote at any election.

Section four of the foregoing article having been altered by the committee by adding thereto the words "or attend court

as a suitor or witness," the same was concurred in.

Mr. BUTTERFIELD moved to suspend the rule, in order that a motion might be entertained to strike out of the first section, the words "residing in this State on the first day of January, 1850, or;" and the yeas and nays were ordered thereon, and resulted—yeas 17, nays 44.

Two-thirds not voting therefor, the rule was not suspended.

Mr. WALKER moved to amend section one as follows:

Insert after "1850," 4th line, "who has declared his intention to become a citizen of the United States, pursuant to the laws thereof, six months preceding an election." Also strike out all after the word "intention," in line five, and all of line six, and insert the words "as aforesaid."

And the same was agreed to.

The article was then referred to the committee on enrollment.

Mr. MARVIN moved that the vote by which the Convention refused to pass the resolution offered by Mr. WALKER yesterday, in relation to the license question, be reconsidered.

The PRESIDENT decided the same not in order.

On motion of Mr. REDFIELD,

Resolved, That when the Convention adjourn, it adjourn to meet at 7 o'clock this evening.

Mr. WILLIAMS, from the committee on arrangement and phraseology, reported

ARTICLE VIII.

OF STATE OFFICERS.

Sec. 1. There shall be elected at each general biennial election, a Secretary of State, a Superintendent of Public Instruction, a State Treasurer, a Commissioner of the Land Office, an Auditor General, and an Attorney General, for the term of two years. They shall keep their offices at the seat of government, and shall perform such duties as may be prescribed by law.

Sec. 2. Their term of office shall commence on the first day of January, 1853, and of every second year thereafter.

Sec. 3. Whenever a vacancy shall occur in any of the State offices, the Governor

shall fill the same by appointment, to continue until the office can be supplied by an election, at such time and in such manner as may be provided for by law.

Sec. 4. The Secretary of State, State Treasurer, and Commissioner of the State Land Office shall constitute a board of State Auditors, to examine and adjust all claims against the State not otherwise provided for by general law. They shall constitute a board of State Canvassers to determine the result of all elections for Governor, Lieutenant Governor, and State Officers, and of such other officers as shall by law be referred to them.

Sec. 5. In case two or more persons have an equal and the highest number of votes for any office, as canvassed by the board of State Canvassers, the Legislature, in joint convention, shall choose one of said persons to fill such office. When the determination of the board of State Canvassers is contested, the Legislature in joint convention shall decide which person is elected.

On motion of Mr. WILLIAMS, section three was amended by striking out all after the word "appointment," and inserting "by and with the advice and consent of the Senate, if in session."

The article was then referred to the committee on enrollment.

Mr. WILLIAMS also reported

ARTICLE IX.

SALARIES.

Sec. 1. The governor shall receive an annual salary of one thousand dollars; the judges of the Circuit Court shall each receive an annual salary of fifteen hundred dollars; the State Treasurer shall receive an annual salary of one thousand dollars; the Auditor General shall receive an annual salary of one thousand dollars; the Superintendent of Public Instruction shall receive an annual salary of one thousand dollars; the Secretary of State shall receive an annual salary of eight hundred dollars; the Commissioner of the Land Office shall receive an annual salary of eight hundred dollars; the Attorney General shall receive an annual salary of eight hundred dollars. They shall receive no fees or perquisites whatever, for the performance of any duties connected with their offices. It shall not be competent for

the Legislature to increase the salaries herein provided.

And there being no alterations to the same, it was referred to the committee on enrollment.

Mr. GARDINER reported

ARTICLE X.

COUNTY OFFICERS AND GOVERNMENT.

Sec. 1. Each organized county shall be a body corporate, with such powers and immunities as shall be established by law. All suits and proceedings by or against a county shall be in the name thereof.

Sec. 2. No organized county shall ever be reduced by the organization of new counties to less than sixteen townships, as surveyed by the United States, unless, in pursuance of law, a majority of the electors residing in each county to be affected thereby shall so decide. The Legislature may organize any city into a separate county, when it has attained a population of twenty thousand inhabitants, without reference to geographical extent, when a majority of the electors of a county in which such city may be situated, voting thereon, shall be in favor of a separate organization.

Sec. 3. In each organized county there shall be a Sheriff, a County Clerk, a County Treasurer, a Register of Deeds and a Prosecuting Attorney, chosen by the electors thereof, once in two years, and as often as vacancies shall happen, whose duties and powers shall be prescribed by law. The board of supervisors in any county may unite the offices of County Clerk and Register of Deeds in one office, or disconnect the same.

Sec. 4. The county clerk, county treasurer, judge of probate and register of deeds, shall hold their offices at the county seat.

Sec. 5. The sheriff shall hold no other office, and shall be incapable of holding the office of sheriff longer than four in any period of six years. He may be required by law to renew his security from time to time, and in default of giving such security, his office shall be deemed vacant. The county shall never be responsible for his acts.

Sec. 6. A board of supervisors, consisting of one from each organized township, shall be established in each county, with such powers as shall be prescribed by law.

Sec. 7. Cities shall have such representation in the board of supervisors of the counties in which they are situated, as the Legislature may direct.

Sec. 8. No county seat once established shall be removed until the place to which it is proposed to be removed shall be designated by two-thirds of the board of supervisors of the county, and a majority of the electors voting thereon shall have voted in favor of the proposed location, in such manner as shall be prescribed by law.

Sec. 9. The board of supervisors of any county may borrow or raise by tax one thousand dollars, for constructing or repairing public buildings, highways or bridges; but no greater sum shall be borrowed or raised by tax for such purpose in any one year, unless authorized by a majority of the electors of such county voting thereon.

Sec. 10. The board of supervisors, or in the county of Wayne, the board of county auditors, shall have the exclusive power to prescribe and fix the compensation for all services rendered for, and to adjust all claims against, their respective counties; and the sum so fixed or defined shall be subject to no appeal.

Sec. 11. The board of supervisors of each organized county may provide for laying out highways, for construction of bridges, and for organizing of townships, under such restrictions and limitations as shall be prescribed by law.

On motion of Mr. WILLIAMS, the title was changed to "counties."

On motion of Mr. McCLELLAND, section 11 was amended by striking out the word "for" before "organizing," and "of" after the same word.

On motion of Mr. ROBERTSON, section 4 was amended by inserting "sheriff" before "county clerk."

The article was then referred to the committee on enrollment.

Mr. WILLIAMS, from the committee on arrangement and phraseology, reported

ARTICLE XI.

TOWNSHIPS.

Sec. 1. There shall be elected annually, on the first Monday of April, in each organized township, one supervisor, one township clerk, who shall be ex officio school inspector, one township treasurer,

one school inspector, not exceeding four constables, and one overseer of highways for each highway district, in whom, together with the justices of the peace, shall be vested the township government, to be defined and limited by the Legislature.

Sec. 2. Each organized township shall be a body corporate, with such powers and immunities as shall be prescribed by law. All suits and proceedings by or against a township, shall be in the name thereof.

Mr. J. BARTOW moved to suspend the rule, in order that a motion might be entertained to amend section 1, by inserting in line 2 the words "one commissioner of highways."

The yeas and nays were had on the motion to suspend the rule, and the result was as follows:

YEAS—Messrs. W. Adams, Anderson, Arzeno, Axford, Barnard, H. Bartow, J. Bartow, Beardsley, Asahel Brown, Burns, Carr, Chandler, Choate, Church, Crouse, Desnoyers, Eaton, Edmunds, Gale, Gardiner, Green, Kinne, Lovell, Marvin, McClelland, Moore, Mosher, Mowry, Newberry, O'Brien, Prevost, Robertson, E. S. Robinson, Skinner, Sturgis, Van Valkenburgh, Wait, Webster, White, Whipple, Woodman—41.

NAYS—Messrs. Beeson, Ammon Brown, Butterfield, Conner, Danforth, Daniels, Fralick, Harvey, Leach, Morrison, Orr, J. D. Pierce, N. Pierce, Town, Warden, Whittemore, Williams—17.

Two-thirds voting therefor, the rule was suspended.

The question being upon inserting as proposed by Mr. J. BARTOW,

Mr. N. PIERCE moved to amend the same by inserting, "the justice of the peace whose term of office will first expire in each town, shall be commissioner of highways;" which was lost.

Mr. J. BARTOW's amendment was then agreed to.

Mr. GREEN moved to suspend the rule in order that the following might be added to the article:

"The word 'town,' instead of 'township,' may be used in all cases where it refers to a corporate body, or to territory within the jurisdiction of such corporate body."

But the Convention refused to suspend the rule.

The article was then referred to the committee on enrollment.

Mr. McCLELLAND, from the committee on arrangement and phraseology, reported

ARTICLE XII.

IMPEACHMENTS AND REMOVALS FROM OFFICE.

Sec. 1. The House of Representatives shall have the sole power of impeaching civil officers for corrupt conduct in office, or for crimes and misdemeanors; but a majority of the members elected shall be necessary to direct an impeachment.

Sec. 2. Every impeachment shall be tried by the Senate. When the Governor or Lieutenant Governor is tried, the Chief Justice of the Supreme Court shall preside. When an impeachment is directed, the Senate shall take an oath or affirmation truly and impartially to try and determine the same according to the evidence. No person shall be convicted without the concurrence of two-thirds of the members elected. Judgment in case of impeachment shall not extend further than removal from office; but the party convicted shall be liable to punishment according to law.

Sec. 3. When an impeachment is directed, the House of Representatives shall elect from their own body three members, whose duty it shall be to prosecute such impeachment. No impeachment shall be tried until the final adjournment of the Legislature, when the Senate shall proceed to try such impeachment.

Sec. 4. No judicial officer shall exercise his office after an impeachment is directed, until he is acquitted.

Sec. 5. The Governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an officer until he shall be acquitted, or until the election and qualification of a successor.

Sec. 6. For reasonable cause, which shall not be sufficient ground for the impeachment of a judge, the Governor shall remove him on a concurrent resolution of two-thirds of the members elected to each house of the Legislature; but the cause for which such removal is required, shall be stated at length in such resolution.

Sec. 7. The Legislature shall provide by law for the removal of any officer elected by a county, township or school district, in

such manner and for such cause as to them shall seem just and proper.

On motion of Mr. J. BARTOW, section 3 was amended by striking out at the end of the same, the words "such impeachment," and inserting "the same."

The article was then referred to the committee on enrollment.

Mr. CRARY reported

ARTICLE XIII.

EDUCATION.

Sec. 1. The Superintendent of Public Instruction shall have the general supervision of public instruction, and his duties shall be prescribed by law.

Sec. 2. The proceeds from the sales of all lands that have been or hereafter may be granted by the United States to the State for educational purposes, and the proceeds of all lands or other property given by individuals, or appropriated by the State for like purposes, shall be and remain a perpetual fund, the interest and income of which, together with the rents of all such lands as may remain unsold, shall be inviolably appropriated and annually applied to the specific objects of the original gift, grant or appropriation.

Sec. 3. All land, the titles to which shall fail from a defect of heirs, shall escheat to the State; and the interest on the clear proceeds from the sales thereof, shall be appropriated exclusively to the support of primary schools.

Sec. 4. The Legislature shall, within five years from the adoption of this constitution, provide for and establish a system of common schools, whereby a school shall be kept without charge for tuition, at least three months in each year, in every school district in the State; and all instruction in said schools shall be conducted in the English language.

Sec. 5. A school shall be kept up and supported in each school district, at least three months in each year. Any school district neglecting to keep up and support such school, shall be deprived for the ensuing year of its proportion of the income of the primary school fund, and of all funds arising from taxes, for the support of schools.

Sec. 6. There shall be elected in each judicial circuit, at the time of the election of the judge of such circuit, a regent of

the University, whose term of office shall be the same as that of such judge; and the regents thus elected shall constitute the board of regents of the University of Michigan.

Sec. 7. The regents of the University and their successors in office shall continue to constitute the body corporate, known by the name and title of "the regents of the University of Michigan."

Sec. 8. The regents of the University shall, at their first annual meeting, or as soon thereafter as may be, elect a president of the University, who shall be ex-officio a member of their board, with the privilege of speaking, but not of voting. He shall preside at the meetings of the regents, and be the principal executive officer of the University. The board of regents shall have the general supervision of the University, and the direction and control of all expenditures from the University interest fund.

Sec. 9. There shall be elected at the general election in the year one thousand eight hundred and fifty-two, three members of a State board of education; one for two years, one for four years, and one for six years; and at each succeeding biennial election there shall be elected one member of such board, who shall hold his office for six years. The Superintendent of Public Instruction shall be ex-officio a member and Secretary of such board. The board shall have the general supervision of the State Normal school, and their duties shall be prescribed by law.

Sec. 10. Institutions for the benefit of those inhabitants who are deaf, dumb, blind or insane, shall always be fostered and supported.

Sec. 11. The Legislature shall encourage the promotion of intellectual, scientific and agricultural improvement; and shall, as soon as practicable, provide for the establishment of an agricultural school. And the Legislature may appropriate the twenty-two sections of salt spring lands now unappropriated, or the money arising from the sale of the same, where such lands have been already sold, and any land which may hereafter be granted or appropriated for the support of such school, and may make the same a branch of the University, for instruction in agriculture and the natural sciences connected therewith,

and place the same under the supervision of the regents of the University.

Sec. 12. The Legislature shall also provide for the establishment of at least one library in each township; and all fines assessed and collected in the several counties and townships for any breach of the penal laws, shall be exclusively applied to the support of such libraries.

On motion of Mr. J. D. PIERCE, the article was amended by striking out "common," wheresoever it occurs, and inserting "primary."

On motion of Mr. WILLIAMS, section 5 was amended by striking out "kept up and supported," in line 1, and also "keep up and support," in line 3, and the words "maintained and" were inserted in lieu thereof.

The amendments were concurred in, and the article was referred to the committee on enrollment.

Mr. WILLIAMS reported

ARTICLE XIV.

FINANCE AND TAXATION.

Sec. 1. All specific State taxes, except those received from the mining companies of the upper peninsula, shall be applied in paying the interest upon the primary school, university and other educational funds, and the interest and principal of the State debt, in the order herein recited, until the extinguishment of the State debt, other than the amounts due to educational funds; when such specific taxes shall be added to, and constitute a part of the primary school fund. The Legislature shall provide for an annual tax, sufficient, with other resources, to pay the estimated expenses of the State government, the interest of the State debt, and such deficiency as may occur in the resources.

Sec. 2. The Legislature shall provide by law a sinking fund of at least twenty thousand dollars a year, to commence in eighteen hundred and fifty-two, with compound interest at six per cent. per annum, and an annual increase of at least five per cent., to be applied solely to the payment and extinguishment of the principal of the State debt, other than the amounts due to educational funds, and shall be continued until the extinguishment thereof. The unfunded debt shall not be funded or redeemed at a value exceeding that established

by law in eighteen hundred and forty-eight.

Sec. 3. The State may contract debts to meet deficits in revenues. Such debts shall not in the aggregate at any one time exceed fifty thousand dollars. The moneys so raised shall be applied to the purposes for which they were obtained, or to the payment of the debts so contracted.

Sec. 4. The State may contract debts to repel invasion, suppress insurrection, or defend the State in time of war. The money arising from the contracting of such debts shall be applied to the purpose for which it was raised, or to repay such debts.

Sec. 5. No money shall be paid out of the treasury except in pursuance of appropriations made by law.

Sec. 6. The credit of the State shall not be granted to or in aid of any person, association or corporation.

Sec. 7. No scrip, certificate, or other evidence of State indebtedness shall be issued, except for the redemption of stock previously issued, or for such debts as are expressly authorized in this constitution.

Sec. 8. The State shall not subscribe to or be interested in the stock of any company, association or corporation.

Sec. 9. The State shall not be a party to or interested in any work of internal improvement, nor engaged in carrying on any such work, except in the expenditure of grants to the State of land or other property.

Sec. 10. The State may continue to collect all specific taxes accruing to the treasury under existing laws. The Legislature may provide for the collection of specific taxes from banking, rail road, plank road, and other corporations hereafter created.

Sec. 11. The Legislature shall provide an uniform rule of taxation, except on property paying specific taxes; and taxes shall be levied on such property as shall be prescribed by law.

Sec. 12. All assessments hereafter authorized shall be on property at its cash value.

Sec. 13. The Legislature shall provide for an equalization by a State board in eighteen hundred and fifty-one, and every fifth year thereafter, of assessments on all

taxable property except that paying specific taxes.

Sec. 14. Every law which imposes, continues or revives a tax, shall distinctly state the tax, and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such tax or object.

On motion of Mr. ROBERTSON, section 2 was amended by inserting between the words "at" and "six," the words "the rate of."

On motion of Mr. CRARY, the word "interest" was inserted between the words "school" and "fund," in line 8 of section 1, and the words "proceeds of" were stricken out of the same line.

The article was referred to the committee on enrollment.

Mr. WILLIAMS, from the committee on arrangement and phraseology, reported

ARTICLE XV.

CORPORATIONS.

Sec. 1. Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes. All laws passed pursuant to this section, may be altered, amended or repealed.

Sec. 2. No banking law or law for banking purposes, or amendment thereof, shall have effect until the same shall, after its passage, be submitted to a vote of the electors of the State, at a general election, and be approved by a majority of the votes cast thereon at such election.

Sec. 3. The officers and stockholders of every corporation or association for banking purposes, issuing bank notes or paper credits to circulate as money, shall be individually liable for all debts contracted during the time of their being officers or stockholders of such corporation or association.

Sec. 4. The Legislature shall provide by law for the registry of all bills or notes issued or put in circulation as money, and shall require security to the full amount of notes and bills so registered, in State or United States stocks bearing interest, which shall be deposited with the State Treasurer for the redemption of such bills or notes in specie.

Sec. 5. In case of the insolvency of any bank or banking association, the bill holders thereof shall be entitled to preference

in payment, over all other creditors of such bank or association.

Sec. 6. The Legislature shall pass no law authorizing or sanctioning the suspension of specie payments by any person, association or corporation.

Sec. 7. The stockholders of all corporations and joint stock associations shall be individually liable for all labor performed for such corporation or association.

Sec. 8. The Legislature shall pass no law altering or amending any act of incorporation heretofore granted, without the assent of two-thirds of the members elected to each house; nor shall any such act be renewed or extended. This restriction shall not apply to municipal corporations.

Sec. 9. The property of no person shall be taken by any corporation for public use, without compensation being first made or secured, in such manner as may be prescribed by law.

Sec. 10. No corporation, except for municipal purposes, or for the construction of rail roads and canals, shall be created for a longer time than thirty years.

Sec. 11. The term "corporations," as used in the preceding sections of this article, shall be construed to include all associations and joint stock companies having any of the powers and privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue and be subject to be sued in all courts, in like cases as natural persons.

Sec. 12. No corporation shall hold any real estate hereafter acquired for a longer period than ten years, except such real estate as shall be actually occupied by such corporation in the exercise of its franchises.

Sec. 13. The Legislature shall provide for the incorporation and organization of cities and villages, and shall restrict their powers of taxation, borrowing money, contracting debts, and loaning their credit.

Sec. 14. Officers of cities and villages shall be elected at such times and in such manner as the Legislature may direct.

Sec. 15. Private property shall not be taken for improvements in cities and villages without the consent of the owner, unless the compensation therefor shall first be determined by a jury of freeholders and actually paid or secured in the manner provided by law.

Sec. 16. Previous notice of any application for an alteration of the charter of any corporation shall be given in such manner as may be prescribed by law.

Mr. MORRISON moved to insert in section three, after the word "during," the words "and for one year thereafter."

Which was not agreed to.

On motion of Mr. McCLELLAND, section fourteen was amended by inserting the word "judicial" at the commencement of the section, and the words "and all other officers shall be elected or appointed," after "elected," in the first line of the section.

On motion of Mr. WHIPPLE, section fifteen was amended by inserting before "improvements," the word "public."

On motion of Mr. SKINNER, the rule was suspended and section ten was amended by inserting after "rail roads," the words "plank roads."

And the article was referred to the committee on enrollment.

By unanimous consent,

On motion of Mr. CRARY, the article entitled "townships" was amended by striking out all after "highway district," and inserting "whose powers and duties shall be prescribed by law."

Mr. McCLELLAND, from the committee on arrangement and phraseology, reported

ARTICLE XVI.

EXEMPTIONS.

Sec. 1. The personal property of every resident of this State, to consist of such articles only as shall be designated by law, shall be exempted to the amount of not less than five hundred dollars, from sale on execution or other final process of any court, issued for the collection of any debt contracted after the adoption of this constitution.

Sec. 2. A homestead of not more than forty acres of land, used for agricultural purposes, and the dwelling house thereon, and the appurtenances to be selected by the owner thereof, and not included in any town plat, city or village; or instead thereof, at the option of the owner, any lot in any city, village or recorded town plat, or such parts of lots as shall be equal thereto, and the dwelling house thereon, and its appurtenances, owned and occupied

by any resident of the State, not exceeding in value fifteen hundred dollars, shall be exempt from forced sale on execution, or any other final process from a court, for any debt contracted after the adoption of this constitution. Such exemption shall not extend to any mortgage thereon lawfully obtained; but such mortgage or other alienation of such land by the owner thereof, if a married man, shall not be valid without the signature of the wife to the same.

Sec. 3. The homestead of a family, after the death of the owner thereof, shall be exempt from the payment of his debts, contracted after the adoption of this constitution, in all cases where any minor children survive the death of such owner, for their benefit and support during minority.

Sec. 4. If the owner of a homestead die, leaving a widow, but no children, the same shall be exempt, and the rents and profits thereof shall accrue to her benefit during the time of her widowhood, unless she be the owner of a homestead in her own right.

Sec. 5. The real and personal estate of every female, acquired before marriage, and all property to which she may afterwards become entitled by gift, grant, inheritance or devise, shall be and remain the estate and property of such female, and shall not be liable for the debts, obligations or engagements of her husband, and may be devised by her as if she were unmarried.

On motion of Mr. CHURCH, the Convention adjourned.

Evening Session.

The Convention was called to order by the PRESIDENT, and a quorum being present,

Mr. HART, from a majority of the committee appointed to divide the State into judicial districts, submitted the following report:

1st district—Monroe, Lenawee and Hillsdale.

2d—Branch, St. Joseph, Cass and Berrien.

3d—Wayne.

4th—Washtenaw, Jackson and Ingham.

5th—Calhoun, Kalamazoo, Allegan, Barry and Van Buren.

6th—St. Clair, Macomb and Oakland.

7th—Lapeer, Genesee, Saginaw, Shiawassee and Livingston.

8th—Eaton, Kent, Ottawa, Ionia, Clinton and Montcalm.

Mr. HANSCOM, from the same committee, submitted a minority report, as follows:

The minority of the committee appointed under the resolution to prepare and report upon the subject of a division of the State into judicial circuits, report and recommend that the districts be composed as follows:

1st district—Wayne and Washtenaw.

2d—Monroe, Lenawee and Hillsdale.

3d—Branch, St. Joseph, Cass and Berrien.

4th—Jackson, Calhoun, Kalamazoo and Van Buren.

5th—Oakland, Macomb and St. Clair.

6th—Livingston, Ingham, Eaton, Barry and Allegan.

7th—Lapeer, Genesee, Shiawassee, Saginaw, Tuscola and Sanilac.

8th—Ionia, Kent, Ottawa, Newaygo, Clinton and Montcalm.

The following is the number of terms that would be required to be held in the different circuits under the above arrangement of circuits, as is now believed from the best estimate of the population of the respective counties: 1st circuit, 8 terms; 2nd, 12; 3d, 14; 4th, 14; 5th, 12; 6th, 14; 7th, 16; 8th, 16.

The undersigned respectfully suggests to the Convention, that among the reasons that induced the placing of Wayne and Washtenaw together, and constituting them a circuit, instead of making the county of Wayne a circuit of itself, the following had much weight, and they ask for them the consideration of the Convention.

By the provisions already incorporated into the constitution which we have framed, Wayne county (or the city of Detroit, in which a large majority of the judicial business of that county originates,) can be relieved by the Legislature, by the organization of municipal courts. Just as much of the duties imposed upon the circuits can be imposed upon such courts as the exigencies of business may require. This exception, though general in the constitu-

tion, as applied to cities, has really no practical operation, except in the county of Wayne.

Another reason is the contiguity of the places of holding the courts in the respective counties. One or two hour's ride, at a nominal cost, takes the judge from Detroit to Ann Arbor, and *vice versa*. Not so as applied to the judges who hold the northern or western circuits. They have to travel hundreds of miles of bad roads, at all seasons of the year, at great labor and expense, as well as serious loss of time.

Another fact is submitted that should have its influence upon this question. Under the proposed division of the majority of the committee, only four terms are to be held by the judge of that circuit; while in some of the others terms to the number of sixteen will be required, and that, too, by judges residing in districts where all the expenses, trouble, and labor of traversing the circuit is far greatest.

But one other reason is respectfully urged. It is unjust to the other portions of the State to withdraw from the judicial force of the State the sole labors of one of the judges, where neither population nor the business that will be imposed upon this Circuit Court, warrants it. There is, in fact, now in existence in the county of Wayne a local tribunal that relieves the Circuit and County Courts of a large mass of business.

Such are some of the reasons that influence the undersigned to dissent from the report of the majority, and induce the submission of the proposition just read.

A. H. HANSCOM.

On motion of Mr. McCLELLAND, the two reports were laid upon the table, and so much of the same as contained the apportionment, ordered printed.

The Convention resumed the consideration of the article "Exemptions."

Mr. FRALICK moved to suspend the rule in order to move the indefinite postponement of the article.

The yeas and nays were had, and the Convention refused to suspend the rule—yeas 20, nays 43.

Mr. McCLELLAND moved to strike out the word "articles" and insert "property."

Mr. NEWBERRY wished to know whether this was the article passed by the

Convention. If it was not substantially the one passed by the Convention, what right had the Convention to consider it, without a suspension of the rules?

The CHAIR stated that wherever there was an alteration from the original article, it should be so stated by the committee.

Mr. McCLELLAND—I suppose the committee pursued their own course. If there is any difference of opinion, the Convention may choose their own course.

The PRESIDENT stated his views: If any important alterations had been made, they ought to be so reported, and the rules suspended before the Convention could act upon them.

Mr. McCLELLAND did not think it the duty of the presiding officer to interpose his opinion on the matter.

The CHAIR—My views differ.

Mr. McCLELLAND said the report had been accepted, and it was not the business of the chair to dictate to the Convention the course it should pursue on the report.

Mr. J. D. PIERCE—There is only one word added in the first section. After the word "property," they have added the word "only."

The motion of Mr. McCLELLAND prevailed.

Mr. SKINNER moved to suspend the rule in order to move to strike out the word "resident," in section 1, and insert "householder;" which did not prevail—yeas 22, nays 49.

Section 1 was then concurred in.

Section 2 being under consideration,

Mr. McCLELLAND moved to amend the same by striking out "a homestead of not more than," and inserting "every homestead not exceeding."

Mr. CHURCH hoped the chair would state what substantial alterations had been made by the committee.

Mr. McCLELLAND said the committee had amended it in conformity with the intention of the Convention in passing the article. The great difficulty consisted in this: whether the forty acres exempted, could be mortgaged or not; it said "forced sale." They believed they were carrying out the original intention in adding "for agricultural purposes."

Mr. CHURCH—I object to the insertion of those words.

The CHAIR—The first question is on

striking out, and inserting "every homestead not exceeding."

Mr. GALE—We seem to be concurring with amendments which it was not the intention of the Convention to pass. There is a radical alteration from what I voted for. I voted for exemption of a homestead of not less than forty acres, and now the proposition is to insert not more than forty acres. I object to the motion without a suspension of the rules.

Mr. McCLELLAND—I have seen a great many reports made in my life, and I understand this to be the parliamentary course: if a committee report, and a member believes they have made a report not in accordance with their instructions, or that they have transcended their powers, the member rises in his place and objects to the reception of the report; but when the report has been accepted, no man can object. It is for the body to receive or object, and not for a member to object to any report after it has been accepted. Such has been my observation of parliamentary proceedings.

Mr. WILLIAMS said, as one of the committee, he would make a statement in reference to the words "not more," or "not less." Every man knew it was the vote of the Convention to exempt the homestead of the man, whether it consisted of five, ten, or forty acres. As it reads, "not more than forty acres," it leaves the inference that the Legislature may make it apply to ten or twenty acres. We wished to prevent legislative interference; and in that the committee have not exceeded their powers, but carried out the intention of the Convention.

Mr. GALE—If the committee were appointed to draft a bill, it might be correct; but was that the intention? A few days since some one offered instructions to this committee, to amend the second section; what then said the gentleman from Monroe? He said the committee had no authority to make any alteration essentially, and argued that they could not do so under instructions. If he were right then, is he not wrong now, in effecting a radical change?

Mr. DANFORTH called Mr. GALE to order.

The report was received and the committee discharged.

The amendment offered by Mr. McCLELLAND was agreed to.

The committee having amended section 2 by inserting in the first line, "for agricultural purposes,"

Mr. ORR rose to explain, in regard to this amendment, in order that he might not be entirely misunderstood by the Convention or the various writers that scribble for the press. He would take this occasion to say that he was in favor of the exemption. The people of the county of Barry, whom I represent, (said Mr. O.,) are in favor of exemptions and the rights of married women. On the final passage of the article, previous to its commitment to the committee on phraseology, I voted against it, because I did not think it the best article that could be got up. It contained some provisions I did not approve of, and I voted against it in the hope that it would not pass before it was perfected. As it is reported back by the committee on phraseology, I think it is improved; yet my former vote places me in a false position with my constituents. I was not satisfied with it before, because it gave not only forty acres, but even five thousand or more; it was quite indefinite.

Again, there was no mode of selling it when mortgaged. It could not be foreclosed by law, as it was exempt from all final process. The committee have remedied that. There is one provision I am not in favor of: that this homestead shall be used for agricultural purposes. I think that is unjust. I hope to have the unanimous vote of the Convention in striking that out.

Mr. CHURCH said he could not concur in the change, or in the addition of the words "for agricultural purposes," unless some further amendments were made.

Mr. McCLELLAND said, as to the addition of the words "for agricultural purposes," it was taken from the Wisconsin law. He would again remark that the committee had not only made the amendments in accordance with what they considered to be the intention of the Convention, but he was authorized to say that at least twenty members of the Convention had been to the committee to induce them to make this amendment.

Mr. CHURCH said nothing would induce him to make a factious opposition to

any proposition which had passed the Convention. This affects the inhabitants of new counties. Not one-third of them can sustain an exemption on forty acres and say it is used for agricultural purposes. They could not sustain it before a judge who would give a strict construction to the language. A person may have forty acres with only a small part of it actually in use for agricultural purposes, though he may intend so to use it. A man might have forty acres which he had not improved; he might be working out at day's wages, and his land be wrenched from him, while another man would retain his, which was waving with crops. Let us stand all alike—those whose lands are covered with the native forest and those covered with wheat.

Mr. McCLELLAND—Suppose I have forty acres—ten acres in wheat and the rest unimproved land. I ask if the whole does not come in for agricultural purposes? He [Mr. McC.] believed it did.

Mr. REDFIELD moved to insert after the word "used," the words "or designed."

Mr. N. PIERCE—I hope the friends of the measure will stand by the article. I was for going with them to exempt all the property of the State. This is the only article that could be settled down on. I think it is better not so broad. I would rather have it definite than leave it to guess work. If gentlemen will go to exempt all the property in the State, I will go with them as far as they could wish. I do not think the committee have exceeded their powers. The gentleman from Kent [Mr. CHURCH] could swallow the judicial article, but he cannot this. I do not think it is so great a change as in the judicial article, or so injurious to the people. Since I first saw the change in the article on the judiciary, I do not blame them for this. It operates nicely. The operations of the Convention have been turned into the hands of the committee, and I hope they will sustain the committee. The gentleman from Kent gained on the judiciary, and he can afford to lose on this. I am satisfied.

Mr. NEWBERRY—I object to concurring without a suspension of the rules.

Mr. EDMUNDS—This bill seems to hurt somebody in every part of the State, especially as it is reported by the commit-

tee. The gentleman from Kent [Mr. CHURCH] said it would hurt some of his constituents if carried; and it will be hard on some of mine, and the constituents of every member on this floor. Around villages some hundreds of persons live on parcels of land, some on three or five acres. They are not in the village plat, and the land is not used for agricultural purposes; but they need exemption as much as other men.

Mr. WILLIAMS—I think the gentleman is wrong in his conclusions. If they go out of the village to get land, it is for agricultural purposes. In answer to the gentleman from Oakland, I do not consider this a departure from, but effecting the object of the Convention. Did they intend me to occupy forty acres and put a flouring-mill on it of the value of twenty thousand dollars? To say land is not agricultural because it has not been plowed, seems preposterous. If grass or trees grow on it, it is agricultural. If not, for what other purpose is it used? A judge would never stultify himself by saying that land, though laying waste, was not agricultural; the worst he could say would be that it was misused. It saves the exemption from being abused, and that is what the Convention want. I feel great reluctance to get up here and explain; but there are none other of the committee here but the gentleman from Monroe [Mr. McCLELLAND] and myself. The rest are sick. He is the head and I am the tail—that is all that is left of the committee.

Mr. VAN VALKENBURGH said the amendment of the gentleman from Cass would meet the object.

Mr. EDMUNDS contended that it would not meet the case. There were hundreds of those small plats around villages, with a house and barn only, which were not used for agricultural purposes.

Mr. J. D. PIERCE—They are included.

Mr. HART—If it is carried it will ruin more than half of my constituents.

Mr. CHURCH was willing to accept the amendment, with the amendment of the gentleman from Cass, so that a person possessing forty acres of land shall not have his rights brought into dispute.

Mr. WALKER said he was not present when the committee reported, or when the discussion commenced; but it seemed to

him to be necessary that there should be inserted after the words "city or village," the words "not exceeding \$1,500." Without such limitation, a person residing in the neighborhood of a village might hold thousands of dollars under this exemption.

Mr. REDFIELD's amendment was agreed to.

The question was taken on concurring in the amendment made by the committee, and was nonconcurred in—yeas 33, nays 36.

Mr. WALKER moved to suspend the rule in order to move the insertion in section 2, after "villages," where it first occurs, the words "not exceeding in value fifteen hundred dollars;" but the Convention refused to suspend the rule.

Mr. BEARDSLEY moved to suspend the rule, that he might be enabled to move to insert in section 2, after the word "State," in line 5, the words "said village lot or lots;" but the Convention refused to suspend the rule.

Mr. WILLIAMS moved to strike from section 3, all after "survive," in last line; which was done by unanimous consent.

On motion of Mr. CHURCH, section 3 was amended by striking out "where any children shall survive," and inserting "during the minority of his children."

Mr. BEARDSLEY moved to suspend the rule, in order to amend section 5 by inserting in the last line, after "devised," the words "or bequeathed;" which was agreed to, and the amendment made.

The article was then referred to the committee on enrollment.

Mr. McCLELLAND reported

ARTICLE XVII.

MILITIA.

Sec. 1. The militia shall be composed of all able bodied white male citizens between the ages of eighteen and forty-five years, except such as are exempted by the laws of the United States or of this State; but all such citizens, of any religious denomination whatever, who, from scruples of conscience, may be averse to bearing arms, shall be excused therefrom, upon such conditions as shall be prescribed by law.

Sec. 2. The Legislature shall provide by law for organizing, equipping and disciplining the militia, in such manner as they

shall deem expedient, not incompatible with the laws of the United States.

Sec. 3. Officers of the militia shall be elected or appointed, and be commissioned in such manner as may be provided by law.

The same was concurred in, and referred to the committee on enrollment.

Mr. WILLIAMS, from the committee on arrangement and phraseology, reported

ARTICLE XVIII.

MISCELLANEOUS PROVISIONS.

Sec. 1. Members of the Legislature, and all officers, executive and judicial, except such inferior officers as may by law be exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of this State, and that I will faithfully discharge the duties of the office of ——— according to the best of my ability." And no other oath, declaration or test shall be required as a qualification for any office of public trust.

Sec. 2. When private property is taken for the use or benefit of the public, the necessity for using such property, and the just compensation to be made therefor, except when to be made by the State, shall be ascertained by a jury of twelve freeholders, residing in the vicinity of such property, or by not less than three commissioners, appointed by a court of record, as shall be prescribed by law.

Sec. 3. No mechanical trade shall hereafter be taught to convicts in the State prison of this State, except the manufacture of those articles of which the chief supply for home consumption is imported from other States or countries.

Sec. 4. No navigable stream in this State shall be either bridged or damed without authority from the board of supervisors of the proper county, under the provisions of law. No such law shall prejudice the right of individuals to the free navigation of such streams, or preclude the State from the further improvement of the navigation of such streams.

Sec. 5. An accurate statement of the receipts and expenditures of the public mo-

neys shall be attached to and published with the laws, at every regular session of the Legislature.

Sec. 6. The laws, public records, and the written judicial and legislative proceedings of the State shall be conducted, promulgated and preserved in the English language.

Sec. 7. Every person has a right to bear arms for the defence of himself and the State.

Sec. 8. The military shall, in all cases, and at all times, be in strict subordination to the civil power.

Sec. 9. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, except in a manner prescribed by law.

Sec. 10. The people have the right peaceably to assemble together, to consult for the common good, to instruct their representatives, and to petition the Legislature for redress of grievances.

Sec. 11. Neither slavery, nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this State.

Sec. 12. No lease or grant hereafter of agricultural land for a longer period than twelve years, reserving any rent or service of any kind, shall be valid.

Sec. 13. Aliens who are, or who may hereafter become, *bona fide* residents of this State, shall enjoy the same rights in respect to the possession, enjoyment and inheritance of property, as native born citizens.

Sec. 14. The property of no person shall be taken for public use without just compensation therefor. Private roads may be opened in the manner to be prescribed by law; but in every case the necessities of the road and the amount of all damage to be sustained by the opening thereof, shall be first determined by a jury of freeholders; and such amount, together with the expenses of proceedings, shall be paid by the person or persons to be benefitted.

On motion of Mr. EDMUNDS, the word "inferior" was stricken from line 2 of section 1.

Mr. J. BARTOW moved to suspend the rule, in order to strike out section 12; but the Convention refused to suspend the rule. The article was referred to the committee on enrollment.

Mr. WILLIAMS reported

ARTICLE XIX.

UPPER PENINSULA.

Sec. 1. The counties of Mackinac, Chippewa, Delta, Marquette, Schoolcraft, Houghton and Ontonagon, and the islands thereunto attached, the islands of Lake Superior, Huron and Michigan, and in Green Bay, and the straits of Mackinac and the River Ste Marie, shall constitute a separate judicial district, and be entitled to a district judge and district attorney.

Sec. 2. the district judge shall be elected by the electors of such district, and shall perform the same duties and possess the same powers as a circuit judge in his circuit, and shall hold his office for the same period.

Sec. 3. The district attorney shall be elected every two years by the electors of the district, shall perform the duties of prosecuting attorney throughout the entire district, and may issue warrants for the arrest of offenders in cases of felony, to be proceeded with as shall be prescribed by law.

Sec. 4. Such judicial district shall be entitled at all times to at least one Senator; and until entitled to more by its population, it shall have three members of the House of Representatives, to be apportioned among the several counties by the Legislature.

Sec. 5. The Legislature may provide for the payment of the district judge a salary not exceeding one thousand dollars a year, and the district attorney not exceeding seven hundred dollars a year; and may allow extra compensation to the members of the Legislature from such territory, not exceeding two dollars a day during any session.

Sec. 6. The elections for all district or county officers, State Senator or Representatives, within the boundaries defined in this article, shall take place on the last Tuesday of September in the respective years in which they may be required. The county canvass shall be held on the first Tuesday in October thereafter, and the district canvass on the last Tuesday of said October.

Sec. 7. One moiety of the taxes received into the treasury from mining corporations in the upper peninsula paying an an-

nual State tax of one per cent., shall be paid to the treasurers of the counties from which it is received, to be applied for township and county purposes, as provided by law. The Legislature shall have power, after the year 1855, to reduce the amount to be refunded.

Sec. 8. The Legislature may change the location of the State prison from Jackson to the Upper Peninsula.

Sec. 9. The charters of the several mining corporations may be modified by the Legislature, in regard to the term limited for subscribing to stock, and in relation to the quantity of land which a corporation shall hold; but the capital shall not be increased, nor the time for the existence of charters extended. No such corporation shall be permitted to purchase or hold any real estate, except such as shall be necessary for the exercise of its corporate franchises.

On motion of Mr. MOORE, section 1 was amended by inserting after "islands," the words "and territory."

Mr. ROBERTSON moved to amend section 7 by striking out the word "moiety" and inserting "half."

And the same was agreed to.

Mr. BUTTERFIELD moved to suspend the rule, in order to strike out section 8; but the Convention refused to suspend, and the article was referred to the committee on enrollment.

Mr. McCLELLAND, from the committee on arrangement and phraseology, reported

ARTICLE XX.

AMENDMENT AND REVISION OF THE CONSTITUTION.

Sec. 1. Any amendment or amendments to this constitution may be proposed in the Senate or House of Representatives. If the same shall be agreed to by two-thirds of the members elected to each house, such amendment or amendments shall be entered on their journals respectively, with the yeas and nays taken thereon, and the same shall be submitted to the electors at the next general election thereafter; and if a majority of the electors qualified to vote for members of the legislature voting thereon, shall ratify and approve such amendment or amendments, the same shall become part of the constitution.

Sec. 2. At the general election to be held in the year eighteen hundred and sixty-six, and in each sixteenth year thereafter; and also at such other times as the legislature may by law provide, the question of a general revision of the constitution shall be submitted to the electors qualified to vote for members of the legislature; and in case a majority of the electors so qualified, voting at such election, shall decide in favor of a convention for such purpose, the legislature, at the next session, shall provide by law for the election of delegates to such convention. All the amendments shall take effect at the commencement of the political year after their adoption.

The amendments made by the committee were concurred in, and the article was referred to the committee on enrollment.

Mr. McCLELLAND, from the committee on arrangement and phraseology, to whom was referred the "Bill of Rights," for the distribution of its sections, reported back the following, and recommended their indefinite postponement.

Sec. 1. All political power is inherent in the people.

Sec. 2. Government is instituted for the protection, security and benefit of the people; and they have the right at all times to alter or reform the same, and to abolish one form of government and establish another, whenever the public good requires it.

Sec. 3. No man or set of men are entitled to exclusive or separate privileges.

Sec. 30. All acts of the Legislature, contrary to this or any other article of this constitution, shall be void.

And the same were indefinitely postponed.

Mr. McCLELLAND, from the same committee, reported back the resolution relative to the question of "colored suffrage;" and the same was referred to the committee on the schedule.

On motion of Mr. BEESON,

Resolved, That the sum of twenty dollars be paid to James Marsden, Oliver C. Wisewell, Gideon Paul and Edward P. Rankin, for enrolling the constitution, and that the officers of the Convention be authorized to issue their warrant for the same.

Mr. MOORE offered the following:

Resolved, That when this Convention

adjourn, it shall meet again at 7 o'clock in the morning.

And the same was agreed to.

Mr. WHIPPLE, from the committee on arrangement and phraseology, reported

SCHEDULE.

That no inconvenience may arise from the changes in the constitution of this State, and in order to carry the same into complete operation, it is hereby declared, that

Sec. 1. The common law and the statute laws now in force, not repugnant to this constitution, shall remain in force until they expire by their own limitations, or are altered or repealed by the Legislature.

Sec. 2. All writs, actions, causes of action, prosecutions and rights of individuals and of bodies incorporate, and of the State, and all charters of corporation, shall continue; and all indictments which shall have been found, or which may hereafter be found, for any crime or offence committed before the adoption of this constitution, may be proceeded upon as if no change had taken place. The several courts, except as herein otherwise provided, shall continue with the like powers and jurisdiction, both at law and in equity, as if this constitution had not been adopted, and until the organization of the judicial department under this constitution.

Sec. 3. That all fines, penalties, forfeitures, and escheats accruing to the State of Michigan under the present constitution and laws, shall accrue to the use of the State under this constitution.

Sec. 4. That all recognizances, bonds, obligations and all other instruments entered into or executed before the adoption of this constitution, to the people of the State of Michigan, to any State, county or township, or any public officer or public body, or which may be entered into or executed under existing laws "to the people of the State of Michigan," to any such officer or public body, before the complete organization of the departments of government under this constitution, shall remain binding and valid; and rights and liabilities upon the same shall continue, and may be prosecuted as provided by law. And all crimes and misdemeanors and penal actions, shall be tried, punished and prosecuted, as though no change had taken place, until otherwise provided by law.

Sec. 5. A Governor and Lieutenant Governor shall be chosen under the existing constitution and laws, to serve after the expiration of the term of the present incumbent.

Sec. 6. All officers, civil and military, now holding any office or appointment, shall continue to hold their respective offices, unless removed by competent authority, until superceded under the laws now in force, or under this constitution.

Sec. 7. The members of the Senate and House of Representatives of the Legislature of one thousand eight hundred and fifty-one shall continue in office, under the provisions of law, until superceded by their successors, elected and qualified under this constitution."

Sec. 8. All county officers, unless removed by competent authority, shall continue to hold their respective offices until the first day of January, in the year one thousand eight hundred and fifty-three. The laws now in force as to the election, qualification and duties of township officers, shall continue in force until the Legislature shall, in conformity to the provisions of this constitution, provide for the holding of elections to fill such offices, and prescribe the duties of such officers respectively.

Sec. 9. On the first day of January, in the year one thousand eight hundred and fifty-two, the terms of office of the judges of the Supreme Court under existing laws, and of the judges of the County Courts, and of the clerks of the Supreme Court, shall expire on the said day.

Sec. 10. On the first day of January, in the year one thousand eight hundred and fifty-two, the jurisdiction of all suits and proceedings then pending in the present Supreme Court, shall become vested in the Supreme Court established by this constitution, and shall be finally adjudicated by the court where the same may be pending. The jurisdiction of all suits and proceedings at law and equity, then pending in the Circuit Courts and County Courts for the several counties, shall become vested in the Circuit Court of the said counties, and District Court of the upper peninsula.

Sec. 11. The probate courts, the courts of justices of the peace, and the police court authorized by an act entitled "an act to establish a police court in the city

of Detroit," approved April second, one thousand eight hundred and fifty, shall continue to exercise the jurisdiction and powers now conferred upon them respectively, until otherwise provided by law.

Sec. 12. The office of State printer shall be vested in the present incumbent until the expiration of the term for which he was elected under the law then in force; and all the provisions of the said law relating to his duties, rights, privileges and compensation, shall remain unimpaired and inviolate until the expiration of his said term of office.

Sec. 13. It shall be the duty of the Legislature, at their first session, to adapt the present laws to the provisions of this constitution, as far as may be.

Sec. 14. The Attorney General of the State is required to prepare and report to the Legislature, at the commencement of the next session, such changes and modifications in existing laws as may be deemed necessary to adapt the same to this constitution, and as may be best calculated to carry into effect its provisions; and he shall receive no additional compensation therefor.

Sec. 15. Any territory attached to any county for judicial purposes, if not otherwise represented, shall be considered as forming part of such county, so far as regards elections for the purpose of representation.

Sec. 16. This constitution shall be submitted to the people for their adoption or rejection, at the general election to be held on the first Tuesday of November, one thousand eight hundred and fifty; and there shall also be submitted for adoption or rejection, at the same time, the separate resolution in relation to the elective franchise; and it shall be the duty of the Secretary of State, and all other officers required to give or publish any notice in regard to the said general election, to give notice as provided by law in case of an election of Governor, that this constitution has been duly submitted to the electors at said election. Every newspaper within this State publishing in the month of September next, this constitution as submitted, shall receive as compensation therefor, the sum of twenty-five dollars, to be paid as the Legislature shall direct.

Sec. 17. Any person entitled to vote for

members of the Legislature, by the constitution and laws now in force, shall, at the said election, be entitled to vote for the adoption or rejection of this constitution, and for or against the resolution separately submitted, at the places and in the manner provided by law for the election of members of the Legislature.

Sec. 18. At the said general election, a ballot box shall be kept by the several boards of inspectors thereof, for receiving the votes cast for or against the adoption of this constitution; and on the ballots shall be written or printed, or partly written and partly printed, the words "adoption of the constitution—yes," or "adoption of the constitution—no."

Sec. 19. The canvass of the votes cast for the adoption or rejection of this constitution, and the provision in relation to the elective franchise separately submitted, and the returns thereof, shall be made by the proper canvassing officers, in the same manner as now provided by law for the canvass and return of the votes cast at an election for Governor, as near as may be; and the return thereof shall be directed to the Secretary of State. On the sixteenth day of December next, or within five days thereafter, the Auditor General, State Treasurer and Secretary of State shall meet at the Capitol, and proceed, in presence of the Governor, to examine and canvass the returns of the said votes, and proclamation shall forthwith be made by the Governor of the result thereof. If it shall appear that a majority of the votes cast upon the question have thereon "Adoption of the constitution—yes," this constitution shall be the supreme law of the State from and after the first day of January, one thousand eight hundred and fifty-one, except as is herein otherwise provided; but if a majority of the votes cast upon the question have thereon "Adoption of the constitution—no," the same shall be null and void. And in case of the adoption of this constitution, said officers shall immediately, or as soon thereafter as practicable, proceed to open the statements of votes returned from the several counties for judges of the Supreme Court and State officers, under the act entitled "an act to amend the revised statutes and to provide for the election of certain officers by the people, in pursuance to an amendment of

the constitution," approved February sixteenth, one thousand eight hundred and fifty," and shall ascertain, determine and certify the results of the election for said officers under said acts, in the same manner, as near as may be, as is now provided by law in regard to the election of Representatives in Congress. And the several judges and officers so ascertained to have been elected, may be qualified and enter upon the duties of their respective offices, on the first Monday of January next, or as soon thereafter as practicable.

Sec. 20. The salaries or compensation of all persons holding office under the present constitution shall continue to be the same as now provided by law, until superseded by their successors elected or appointed under this constitution; and it shall not be lawful hereafter for the Legislature to increase or diminish the compensation of any officer during the term for which he is elected or appointed.

Sec. 21. The Legislature, at their first session, shall provide for the payment of all expenditures of the Convention to revise the constitution, and of the publication of the same as is provided in this article.

Sec. 22. Every county except Mackinac and Chippewa, entitled to a representative in the Legislature, at the time of the adoption of this constitution, shall continue to be so entitled under this constitution; and the county of Saginaw, with the territory that may be attached, shall be entitled to one Representative; the county of Tuscola, and the territory that may be attached, one Representative; the county of Sanilac, and the territory that may be attached, one Representative; the counties of Midland and Aronac, with the territory that may be attached, one Representative; the county of Montcalm, with the territory that may be attached thereto, one Representative; and the counties of Nawaygo and Oceana, with the territory that may be attached thereto, one Representative. Each county having a ratio of representation and a fraction over, equal to a moiety of said ratio, shall be entitled to two representatives, and so on above that number, giving one additional member for each additional ratio.

Sec. 23. The cases pending and undisposed of in the late court of chancery, at the time of the adoption of this constitution,

shall continue to be heard and determined by the judges of the Supreme Court. But the Legislature shall, at its session in one thousand eight hundred and fifty-one, provide by law for the transfer of said causes that may remain undisposed of on the first day of January, one thousand eight hundred and fifty-two, to the Supreme or Circuit Court, established by this constitution, or require that the same may be heard and determined by the circuit judges.

Sec. 24. The term of office of the Governor and Lieutenant Governor shall commence on the first day of January next after their election.

Sec. 25. The territory described in the article entitled "Upper Peninsula," shall be attached to and constitute a part of the third circuit for the election of a regent of the University.

Sec. 26. The Legislature shall have authority, after the expiration of the term of office of the district judge first elected for the upper peninsula, to abolish said office of district judge and district attorney, or either of them.

Sec. 27. The Legislature shall, at its session of one thousand eight hundred and fifty-one, apportion the Representatives among the several counties and districts, and divide the State into Senate districts, pursuant to the provisions of this constitution.

Sec. 28. The terms of office of all State and county officers, of the circuit judges, members of the board of education, and members of the Legislature, shall begin on the first day of January next succeeding their election.

RESOLUTION.

Sec. 29. At the next general election, and at the same time when the votes of the electors shall be taken for the adoption or rejection of this constitution, an additional amendment to section one of article seven, in the words following:

"Every colored male inhabitant possessing the qualifications required by the first section of the second article of the constitution, shall have the rights and privileges of an elector,"

Shall be separately submitted to the electors of this State for their adoption or rejection, in form following, to wit: A separate ballot may be given by every person

having the right to vote for the revised constitution, to be deposited in a separate box. Upon the ballots given for the adoption of the said separate amendment shall be written or printed, or partly written and partly printed, the words "Equal suffrage to colored persons? Yes;" and upon all ballots given against the adoption of the said separate amendment, in like manner, the words "Equal suffrage to colored persons? No." And on such ballots shall be written or printed, or partly written and partly printed, the words "Constitution: Suffrage," in such manner that such words shall appear on the outer side of such ballot when folded. If, at said election, a majority of all the votes given for and against the said separate amendment shall contain the words "Equal suffrage to colored persons? Yes;" then there shall be inserted in the first section of the article, between the words "tribe" and "shall," these words: "and every colored male inhabitant," anything in the constitution to the contrary notwithstanding."

The amendments were severally concurred in.

The article was ordered to a third reading, and so read, when

Mr. CHAPEL moved to lay the same on the table and order it printed; but the motion was lost.

And the article was then passed.

On motion of Mr. GARDINER, the Convention adjourned.

THURSDAY, (57th day,) August 15.

The Convention met pursuant to adjournment, and was called to order by the PRESIDENT.

Prayer by Rev. Mr. TOOKER.

RESOLUTIONS.

On motion of Mr. HART,

Resolved, That the Secretary of the Convention draw a certificate in favor of Ezra Willis, for the sum of three dollars, for services as door keeper for the first day of the session, and for cleaning and putting the Hall in order after the adjournment of the Convention.

On motion of Mr. HASCALL,

Resolved, That the State Printer deposit with the Secretary of State, the journals, reports and documents to which each mem-

ber is entitled, put up in separate parcels, and marked with the name of the member and officer entitled to each, subject to his order.

The PRESIDENT called Mr. WILLIAMS to the chair.

Mr. GARDINER offered the following:

Resolved, That 2,400 copies of the constitution, as adopted by this Convention, be printed in pamphlet form, to be distributed, one to each of the newspapers of the State, and the remainder equally amongst the members of this Convention.

Mr. J. BARTOW—I would ask what is the object, when we have provided for its publication in every paper in the State? They will be useless lumber in our offices. It would be a considerable item of expense, without any benefit.

Mr. CHAPEL hoped it would not be adopted.

Mr. McCLELLAND suggested the propriety of sending one copy to each proprietor of a newspaper in the State.

Mr. VAN VALKENBURGH hoped the resolution would be adopted. Many persons do not take newspapers. It would be of use as matter of reference hereafter.

Mr. GARDINER—We learn from various quarters of the State that they are forestalling public opinion, and it is necessary to get it before the people in pamphlet form. It is ordered to be printed in newspapers, in September; we want to get it into the hands of the people before that time.

The resolution was adopted—yeas 30, nays 29.

Mr. ALVORD offered the following:

Resolved, That the Secretary of this Convention, and the Reporters appointed under resolution of June 3d, and the Door-keeper, be and they are hereby allowed the same mileage as is allowed to the members of this Convention.

Mr. WOODMAN moved to insert "and messengers;" which was lost.

On motion of Mr. WOODMAN the resolution was indefinitely postponed.

Mr. CHURCH offered the following:

Resolved, That the sum of twenty-five dollars be and is hereby allowed to Edwin R. Merrifield, for extra services as Door-keeper and Sergeant-at-arms *pro tempore* to this Convention, and that a certificate

be drawn for the same, in the usual manner.

Mr. FRALICK moved to indefinitely postpone the same; and the yeas and nays being had thereon, the motion to indefinitely postpone was lost—yeas 31, nays 31.

And on the adoption of the resolution the yeas and nays were had, and resulted—yeas 33, nays 35.

So the resolution was not adopted.

On motion of Mr. EDMUNDS,

Resolved, That the thanks of this Convention be unanimously tendered to the Hon. DANIEL GOODWIN, President of the Convention, for the able and impartial manner in which he has discharged the duties of presiding officer of this body.

Mr. LOVELL offered the following:

Resolved, That the thanks of this Convention be presented to JOHN SWEGLES, Jr., H. S. ROBERTS, and CHARLES HASCALL, for the faithfulness and ability with which they have discharged their duties as Secretaries.

The resolution was unanimously adopted.

On motion of Mr. HART, the majority report of the select committee upon dividing the State into judicial districts, was taken from the table.

Mr. J. BARTOW offered the following, based upon the report, to stand as a separate section of the schedule:

"The State, exclusive of the upper peninsula, shall be divided into eight judicial circuits, and the counties of Monroe, Lenawee and Hillsdale shall constitute the first circuit; the counties of Branch, St. Joseph, Cass and Berrien, shall constitute the second circuit; the county of Wayne shall constitute the third circuit; the counties of Washtenaw, Jackson and Ingham shall constitute the fourth circuit; the counties of Calhoun, Kalamazoo, Allegan, Barry and Van Buren, shall constitute the fifth circuit; the counties of St. Clair, Macomb and Oakland shall constitute the sixth circuit; the counties of Lapeer, Genesee, Saginaw, Shiawassee, Livingston, Tuscola and Midland shall constitute the seventh circuit; and the counties of Eaton, Kent, Ottawa, Ionia, Clinton and Montcalm shall constitute the eighth circuit."

Mr. J. BARTOW hoped it would meet with the approval of a large majority of the Convention. It was a delicate duty to

perform; but it was the duty of the Convention to fix the districts. He was clearly of the opinion that this division would meet the approbation of the Convention; if not, he had no hope that it could be satisfactorily done by the Legislature.

Mr. BUSH moved to substitute for the foregoing the minority report of the committee.

Mr. MORRISON moved the indefinite postponement of the whole subject; which was lost.

Mr. WALKER submitted the following substitute for the one proposed by Mr. BUSH:

"The State is hereby divided into eight judicial circuits, to wit:

The first circuit shall consist of the counties of Monroe, Lenawee and Hillsdale; the second circuit shall consist of the counties of Branch, St. Joseph, Cass and Berrien; the third circuit shall consist of the counties of Wayne and Washtenaw; the fourth circuit shall consist of the counties of Jackson, Calhoun, Kalamazoo, Van Buren and Allegan; the fifth circuit shall consist of the counties of Kent, Ottawa, Ionia, Barry and Montcalm; the sixth circuit shall consist of the counties of Eaton, Clinton, Shiawassee, Ingham and Livingston; the seventh circuit shall consist of the counties of Oakland, Genesee and Saginaw; the eighth circuit shall consist of the counties of Macomb, St. Clair, Lapeer and Sanilac."

Mr. KINGSLEY—I see in the last proposition that Wayne and Washtenaw are placed in one district. To that I should have no objection, if the public convenience would be subserved. Wayne has the business of three counties. If Wayne and Washtenaw were put together, the business could not be done. He [Mr. K.] did not want the system to be defeated in the outset.

Mr. WALKER said Wayne and Washtenaw together would have more business than any other district. But the time spent in traveling from county to county in the other districts, would be avoided in this district. This difference of time spent in traveling would allow the judge more time to devote to the duties of the bench without calling for so great exertion, as in the other districts.

Mr. GOODWIN—I cannot suppose the

Convention will adopt a system of districts with Wayne and Washtenaw together. The remarks of the gentleman from Washtenaw are correct. When the County Courts and the Chancery Court are abolished, there will be enough business to occupy a judge in the county of Wayne alone.

Mr. BUSH was in favor of the proposition of the gentleman from Macomb, [Mr. WALKER.] A large portion of the State was new, and the roads bad. Regard should be paid to the convenience of getting round the country. Looking to the different sections of the State, and the convenience of the judges, he considered the amendment of Mr. WALKER the best.

The yeas and nays being had on the adoption of Mr. WALKER's proposition, the same was rejected—yeas 21, nays 46.

Mr. J. BARTOW modified his proposition by adding the county of Sanilac to the sixth district.

Mr. BUTTERFIELD moved to amend the proposition of Mr. BUSH, by striking from the apportionment for the fourth district the county of Van Buren, and attaching the same to the third district.

But the amendment did not prevail.

And on the adoption of the minority report proposed by Mr. BUSH, as a substitute for Mr. J. BARTOW's proposition, the yeas and nays were ordered, and the result was yeas 28, nays 41.

So the substitute was not adopted.

The question recurring on the adoption of Mr. J. BARTOW's proposition,

Mr. CHURCH moved to amend the same by transferring in the apportionment for the fifth and eighth districts, the counties of Barry and Eaton; so that the county of Barry should be placed in the eighth district, and the county of Eaton in the fifth.

And the amendment was accepted by Mr. J. BARTOW.

Mr. ROBERTSON moved the following as an addition to the proposition under consideration:

"Sec. —. Any citizen of this State shall be eligible to the office of circuit judge in any judicial circuit, without reference to his residence at the time of his election."

Mr. EATON moved the previous question, and the same being seconded, the

the main question was ordered to be now put.

Mr. ROBERTSON's amendment was then disagreed to.

And the question being on the adoption of Mr. J. BARTOW's proposition, the same was agreed to as an additional section to the schedule.

On motion of Mr. VAN VALKENBURGH,

Resolved, That the thanks of the Convention be tendered to EDWIN R. MERRIFIELD, for the efficient and courteous manner in which he has discharged his duties as door-keeper during the session.

The PRESIDENT took the chair.

Mr. GARDINER called up his resolution of yesterday, relative to the supervision and printing of the reports.

Mr. WALKER moved to strike out "C. J. Fox," and insert "JOSEPH COATES."

Mr. ROBERTSON moved the previous question, and the same being seconded, the main question was ordered to be now put.

The amendment of Mr. WALKER was disagreed to; yeas 27, nays 34.

And the question being on the adoption of the resolution proposed by Mr. GARDINER, the same was agreed to; yeas 44, nays 21.

Mr. GARDINER, from the committee on printing, to whom was referred the resolution of yesterday, directing them to inquire into the expediency of ordering the old and new constitutions printed in the Dutch, German and French languages, reported the same back, and that in their opinion it would be inexpedient.

The report was accepted and adopted.

Mr. WOODMAN offered the following:

Resolved, That the committee soliciting subscriptions to pay the clergy for services performed in this Convention, are hereby required to report, as soon as convenient, the amount of funds received and the manner in which the same have been disposed of.

On motion of Mr. CHURCH, the resolution was indefinitely postponed.

On motion of Mr. CORNELL, the committee alluded to in the foregoing resolution were allowed liberty to report.

Mr. J. D. PIERCE reported verbally, that the sum of \$132 had been raised and disbursed to the officiating clergymen.

On motion of Mr. CHURCH,

Resolved, That the members of this Convention now absent, be requested and are hereby authorized to affix their signatures to the constitution adopted by this Convention and enrolled by its order, whenever it may be convenient for them so to do.

Mr. McCLELLAND moved that when this constitution shall be enrolled, it shall be signed by the members by counties, as the same shall be called; which was agreed to.

On motion of Mr. WOODMAN,

Resolved, That the thanks of this Convention are hereby tendered to the messengers, for the faithful discharge of their duties.

On motion of Mr. BEESON,

Resolved, That the Governor be and he is hereby requested to draw his warrant upon the contingent fund for \$550 62, in favor of the post master of Lansing, in full for the postage of this Convention.

On motion of Mr. GARDINER,

Resolved, That WILLIAM COATES, JOSEPH COATES and MARTIN MAHON, be allowed their per diem allowance as reporters of the Convention, for eight days after the adjournment of the same, to complete their reports and prepare them for the press.

On motion of Mr. HANSCOM,

Resolved, That the thanks of this Convention be tendered to the various reporters for the efficient, accurate and prompt manner in which they have performed their duties.

On motion of Mr. BRITAIN,

Resolved, That the Secretary of this Convention be instructed to draw his certificate in favor of JOSEPH COATES, WILLIAM COATES, and MARTIN MAHON, for the amounts due them respectively, for eight days' services, authorized in the resolution this morning adopted.

The President submitted a report of the Secretary of the Convention, in pursuance of a resolution, adopted on the 14th instant; which was read.

On motion of Mr. HANSCOM,

Resolved, That this Convention recommend to the next Legislature that proper compensation be paid by the State to the proprietors of the various Newspaper Press, who have regularly furnished the members of this Convention with their papers.

On motion of Mr. BRITAIN,

Resolved, That the State Printer be requested to complete the publication of the daily journals, and forward the same to the members respectively by mail, with as little delay as practicable.

Mr. BEESON, from the select committee upon enrollment, reported the constitution and schedule as correctly enrolled, and submitted the same to the Convention.

On motion of Mr. WOODMAN, a call of the Convention was had, and Messrs. J. BARTOW, BUTTERFIELD, BUSH, CARR, KINGSLEY, LOVELL, NEWBERRY, ORR, N. PIERCE and RIX ROBINSON, were found absent without leave.

On motion of Mr. WHITTEMORE, the Sergeant-at-Arms was dispatched for the absentees, who soon thereafter appearing,

On motion of Mr. LEACH, all further proceedings under the call were dispensed with.

Mr. McCLELLAND then moved the adoption of the constitution; and the yeas and nays being had thereon, the motion prevailed as follows:

YEAS—Messrs. W. Adams, Alvord, Anderson, Arzeno, Axford, Bagg, Barnard, H. Bartow, J. Bartow, Beardsley, Beeson, Britain, Ammon Brown, Asahel Brown, Burns, Butterfield, Chandler, Chapel, Choate, Church, Comstock, Conner, Cornell, Crary, Crouse, Danforth, Daniels, Desnoyers, Eaton, Edmunds, Fralick, Gale, Gardiner, Gibson, Green, Harvey, Hascall, Kingsley, Kinne, Leach, Lee, Lovell, Marvin, McClelland, Moore, Morrison, Mosher, Mowry, O'Brien, Orr, J. D. Pierce, N. Pierce, Prevost, Redfield, Robertson, E. S. Robinson, Rix Robinson, Skinner, Soule, Sturgis, Town, Van Valkenburgh, Wait, Walker, Warden, Webster, Whipple, Williams, Woodman—69.

NAYS—Messrs. Bush, Carr, Hanscom, Hart, McLeod, Newberry, Roberts, Storey, White, Whittemore, President—11.

Mr. BUSH presented the following:

The undersigned, members of this Convention, solemnly protest against the adoption of the proposed constitution; for that

1st. Having full confidence in the integrity of the people, and in their ability to successfully maintain a representative government, they believe that all abuses can and will be corrected by an enlightened public opinion through the ballot box.

2d. That our State being new, and con-

sequently but partially developed, they believe that the detail of the constitution which has been carried out in its every article, even to the one on township government, is not adapted to its changing condition and rapid growth and improvement.

3d. That distrust in the intelligence of the people, stamped upon every article of the Constitution, is, in their opinion, a stigma upon their character, not justified by the history of the State.

C. P. BUSH,

WM. NORMAN McLEOD,

E. J. ROBERTS.

In accordance with the resolution adopted this morning, the constitution was signed in the following order, to wit:

By the President—D. Goodwin.

From the county of *Allegan*—Oka Town.

Barry—Joseph W. T. Orr.

Berrien—Jacob Beeson, Calvin Britain and Charles W. Whipple.

Branch—Wales Adams and Asahel Brown.

Calhoun—Isaac E. Crary, W. V. Morrison, John D. Pierce, Nathan Pierce and Milo Soule.

Cass—George Redfield.

Clinton—David Sturgis.

Eaton—Charles E. Beardsley and J. D. Burns.

Genesee—John Bartow, Elbridge G. Gale and DeWitt C. Leach.

Hillsdale—D. Kinne and John Mosher.

Ingham—Charles P. Bush and Ephraim B. Danforth.

Ionia—Henry Bartow and Cyrus Lovell.

Jackson—Robert H. Anderson, John L. Butterfield, Jerry G. Cornell, Elisha S. Robinson and Wilbur F. Storey.

Kalamazoo—Volney Hascall.

Kent & Ottawa—Thomas B. Church and Rix Robinson.

Lapeer—N. H. Hart and Joseph R. White.

Lenawee—Charles Chandler, Addison J. Comstock, Ebenezer Daniels, Nelson Green and George C. Harvey.

Livingston—Eli Barnard, Robert Crouse, D. S. Lee and Robert Warden, Jun.

Mackinac—Wm. Norman McLeod.

Macomb—C. W. Chapel, A. S. Robertson and D. C. Walker.

Monroe—Robert McClelland, H. B. Marvin, Emmerson Choate and A. M. Arzeno.

Oakland—Wm. Axford, A. H. Hanscom, Z. M. Mowry, Seneca Newberry, James Webster, Gideon O. Whittemore, Elias S. Woodman and Jacob Van Valkenburgh.

Shiawassee—Francis J. Prevost.

St. Joseph—E. S. Moore, William Conner and J. R. Williams.

Washtenaw—W. S. Carr, J. M. Edmunds, E. P. Gardiner, James Kingsley, Morgan O'Brien, E. M. Skinner and B. W. Wait.

Wayne—Henry J. Alvord, Joseph H. Bagg, Ammon Brown, Peter Desnoyers, Ebenezer E. Eaton, Henry Fralick and John Gibson.

John Swegles, Jr., Horace S. Roberts, Charles Hascall, Secretaries.

The constitution as enrolled and signed, was then transmitted to the Secretary of State.

The delegate from Chippewa [Mr. E. J. ROBERTS] declined signing.

There were absent at the time of the adoption of the constitution, Messrs. P. R. ADAMS, BACKUS, ALVARADO BROWN, J. CLARK, S. CLARK, COOK, DIMOND, EASTMAN, GRAHAM, HATHAWAY, HIXON, MASON, RAYNALE, M. ROBINSON, SULLIVAN, SUTHERLAND, TIFFANY, WELLS, WILLARD and WITHERELL.

There being no further business before the Convention, at the suggestion of Mr. J. D. PIERCE, the Rev. Mr. Tooker closed the deliberations of the body with prayer.

Mr. DESNOYERS moved that the Convention adjourn *sine die*; which motion prevailed.

The PRESIDENT then addressed the Convention as follows:

Gentlemen of the Convention:

The expression of your approbation of the manner in which I have discharged my duties as your presiding officer, contained in the resolution adopted this morning, has awakened in my bosom emotions of high gratification. I thank you for it, and shall ever recur to it with pleasure. The task of framing the institutions by which the rights, interests and liberties of a people are to be guarded and secured, is at any time important; especially is it so at a period like the present, when the spirit of free inquiry is bringing to the test of observation, of experience and of close scrutiny,

the principles which lie at the foundation of civil government, and State after State is revising and reconstructing its fundamental law. At such a period it was to be expected that diversities of opinion would exist, and that the variety and moment of topics arising for consideration, would lead to extended discussion and earnest debate. It cannot be otherwise than a source of gratification that in the midst of these, and the labors to which you have devoted yourselves with so much zeal and fidelity, there have so uniformly prevailed that dignity

and urbanity which would ever be expected from a body of intelligent citizens convened for such high purposes.

I feel under great obligations to you, gentlemen, for the kindness and courtesy so generally extended to me throughout your arduous session. For them I tender to you my sincere thanks; and as we are about to part, allow me, in conclusion, to express to you each and all, my earnest wishes for your welfare and prosperity.

I now pronounce this Convention adjourned without day.

APPENDIX.

REMARKS of Mr. GOODWIN, relative to the Senatorial District System, in Convention, Thursday afternoon, July 11th, 1850:

Mr. GOODWIN—I beg the indulgence of the Convention while I assign my reasons for the vote I shall give on the proposition under consideration. The proposition is, in substance, to provide for the election of Senators in single Senatorial districts; not in districts where one shall be elected at each election in the district. The article originally reported contemplated that at the first election two Senators should be elected in each district, and that subsequently to the first election, there should be one in each district elected; but the amendment is to elect but one in a district at each alternate election. This does not meet my views. The article reported by the committee on the legislative department, as to that branch of the Legislature, appears to me preferable.

Let us look at the object of having two distinct branches of the legislative department, and in conjunction with another department of the government. The men of our revolution, the men by whom our government was originally formed, who were deeply versed in the principles of government, regarded two branches in the legislative department of vast importance in preventing hasty and inconsiderate legislation. That was not all. The veto power, in most of the States, was vested in the executive department, and that was considered a conservative power; so that before a law could have force and effect, it should receive the assent of the popular branch;

then the assent of another branch, representing larger districts, elected for a longer term, and not so subject to hasty or inconsiderate action from local or sectional causes; then, finally, the approval of the Executive, who might, by his veto, prevent the adoption of a proposed law, until it should receive the sanction of a larger number of each house; and if this was not obtained, until the people had an opportunity to consider it at another election. That is the theory of our government, as instituted in the States of this Union. Is it not proper that we should preserve this feature as a check to hasty legislation? The committee who reported this article have said so. The committee of the whole have said so, and reported the article back. This Convention have thought it expedient that we should have two branches, and to retain a Senate.

It has been deemed proper that Senators should represent a larger district, and be chosen for a longer time than members of the other branch; and that they should go out, not all at the same time, but in sections, so that some members may be retained who have experience. What is the substance of the proposed change? By limiting the districts and diminishing the territory which the Senator represents, and by the further design which has been indicated, of shortening the time for which he shall be elected, to a single session, you take away most of the distinctive qualities of the Senate, which were designed to, and do, give value to the objects for which it was constituted. It appears to me, sir, if you adopt the proposed change, you may

almost as well abolish the Senate entirely. That will be nearly the effect. This, however, would be a radical change in the government, which has not been contemplated by the community. I, therefore, (said Mr. G.) approved the article in this respect, as reported by the committee. It best preserves the great objects for which the two branches were designed. I would continue the Senate as a great component part of the legislative power. By the change, you would almost entirely fritter it away.

It is proposed, and the measure has received the sanction of the committee, that Representatives shall be elected in single districts. This commends itself to public approbation, and is in accordance with public sentiment. This renders it the more important that the characteristic properties of the Senate should be preserved. By electing in single districts, you localize your Representative, and make him, the agent of a small fraction of a county. When you elect a Senator from a larger district, you withdraw him from sectional objects and feelings, and consequently render your Senate more free from local prejudices and sectional influences, and better prepared to look to the general interests of the whole people of the State. By electing two in a district, they will go out alternately, and one be elected by the people of the district at each election for members. This will be most beneficial and safest for the interests of the people.

It has been said that public opinion calls for the change proposed. If (said Mr. G.) I were satisfied of that—that public opinion in my county was in favor of it, I should so cast my vote; but I do not come to that conclusion, or think that such is the case. Perhaps it may be in the neighborhood of my honorable colleague, [Mr. FRALICK.] True, in one of the Detroit papers, an article appeared to the effect stated by the gentleman; and he has made the remark that, if any candidate was opposed to it, he should have expressed his dissent. I do not believe that a candidate is bound to say yea or nay to an article appearing in a party paper. The views it suggests are thrown out for the people to discuss. These matters have been the subject of some conversation in the county of Wayne, but I think no particular public sentiment has been formed upon it, though

the statement of Mr. FRALICK may be correct, if limited to that part of the county in which he resides. As he has supposed that we were under instructions, I will state a fact which I think will satisfy him, as well as others, on this point. In the convention by which our names were placed before the people as candidates, resolutions of instruction were proposed; and among others, one in favor of biennial sessions and single districts. It was urged by those opposed to instructions, that the candidates had been nominated, and that it would be proper to allow them to act, under all the circumstances, as they thought best. These resolutions were laid on the table. That, I consider a much better expression as to public opinion than a newspaper article, whether written by an editor or a correspondent; although the editor might insert a hand with a finger pointed to it.

Mr. COOK—It was an editorial article.

Mr. GOODWIN—That makes no difference. If I believed the masses in the county I represent, wished it, I would carry out their views; but I believe there is no distinct expression in the county on this point. I believe it is the wish of the majority of that county to keep two distinct branches of the Legislature, with their distinctive features; therefore, I shall go against the amendment, and in favor of the report of the committee on the legislative department.

REMARKS of Mr. ROBERTS, on the proposition of Mr. CHURCH, (p. 749,) relative to specific taxes, in Convention, Saturday Afternoon, Aug. 3, 1850, p. 755.

Mr. ROBERTS—Mr. President: A motion having been made to except the specific taxes received from the mining companies of the upper peninsula from the proposed appropriation of the specific State taxes generally, and from various remarks made by members during the morning session, I am forced to the conclusion that the time has arrived when I am called upon, as the immediate representative of the interests of the mining region, to give a full statement of the position in which that

section of our State has been placed by the faulty action of the general government, and by careless legislation in this Capitol.

I have listened, sir, with painful emotions, whilst in committee of the whole, to aspersions cast upon the upper peninsula, by gentlemen who have no acquaintance with or knowledge of the country, its advantages, wants or requirements—who have never visited that region, and know nothing of the state of its affairs; and in order to furnish the Convention with facts of a reliable character, and with positive information, I shall have reference to notes collected and intended for a report from the committee, of which I have the honor to be chairman—a report which would have been made, probably, on Monday next, and which has only been deferred in deference to the several committees on other articles occupying the attention of this Convention, and to enable the committee to so execute their task as to conform to the general frame-work for the constitutional platform of the lower peninsula. I had hoped that the committee on the "Governmental and Judicial Policy of the Upper Peninsula" would have been thus indulged, both to save time and to avoid antagonistical positions; but, sir, circumstances have over-ruled me, and I must perform my duty.

I shall have to beg for more time than the ten minutes allowed by the rule, and in asking that time extended, I would call the attention of the Convention to the fact that I have seldom interfered with their labors, or interrupted their progress.

The rule being suspended, on motion of Mr. McCLELLAND, Mr. ROBERTS proceeded:

Sir, in 1844, the Secretary of War granted to individuals permits to locate tracts of land in the mineral region on the Southern shore of Lake Superior, of three miles square, for a period of three years, subject to renewals; the lessees or permittees to pay to the Government six per cent. on all mineral raised during the first term, and ten per centum after renewal of leases. The demand for permits becoming numerous, it was thought proper in a short time to stop the issue for three miles square, and substitute one mile square. Under this arrangement more permits were grant-

ed than there were lands to be covered; and contentions arising, Congress interfered and passed the act of March 1, 1847, entitled "An act to establish a land office in the northern part of Michigan, and to provide for the sale of mineral lands in the State of Michigan."

By this act the charge of these lands was transferred to the Treasury Department, a geological survey ordered, and full directions given to bring the mineral lands into market, the lessees or permittees to be protected by giving them the privilege to purchase at \$2,50 per acre, if they should take the whole they had located, or \$5 the acre for not less than a quarter section; and \$5 to be paid by all entering after the lands had been duly placed in market. Accordingly, in 1848, a portion of these lands were placed in market by the customary proclamation, but under the adverse circumstances of a doubtful survey, and at a time when those who were in occupancy questioned the propriety of taking them up at those prices, even if they possessed the means to do so, the Government having failed to fulfill the promise of its agents in building a ship canal around Saut Ste Marie, and in every other respect. Some three or four did, however, accede to the terms, whilst others, whose leases had not yet expired, held over, and many abandoned their locations. These latter were succeeded in many instances by more wealthy capitalists; and new explorations developing richer veins of mineral, many substantial companies were established, additional capital called in to the aid of the old ones, and the labor of mining was renewed with a vigor which has continued without abatement until the present time; although they have had to and are still contending against the most discouraging and oppressive embarrassments, arising from the neglect of the general government, and partially from a want of proper legislation and action on the part of our State Government.

At the session of our Legislature, 1848, twenty-one charters were granted to these companies, viz: to the Copper Falls, North Western, Pittsburgh and Boston, Lake Superior Fishing and Mining, Lac la Belle, Bohemian, Albion, Douglass Houghton, Eagle Harbor, Medora, Ontonagon, North American, Quincy, New York and Michi-

gan, New England, Algonquin, Michigan, National, Lake Superior, Jackson, Mackinac, and Lake Superior Mining Companies. These charters were considered liberal, except in respect to the payment of one per centum into the State Treasury on the entire amount of their real estate, the capital stock paid in, and upon all sums of money borrowed by them, as well as any portion of the nett profits invested in the business of the company, which tax was "*to be in lieu of all other taxes upon the personal property of the companies, and in lieu of all other State taxes on their real estate.*" The charters were liberal, inasmuch as they did not restrict them in the quantity of land they might hold, and thus enforce them by limiting their localities to pay the United States the double rate, and because they did not compel them to pay in a greater amount perhaps than their works would require, by a given period. Illiberal, in putting them upon a par with banks and railroads in their exactions, for that because it was desirable to possess chartered privileges, to invite capital from abroad in aid of digging copper and iron out of the mineral bearing rocks of Lake Superior, when compelled to pay ten per centum of whatever they raised to the United States, or double or quadruple per acre for their bleak and apparently barren possessions, more than their fellow citizens of the lower peninsula for the fertile soil from which they dig their potatoes and gather their rich harvests; and for that it would deprive them of healthy county and township government, in as much as they left little or nothing to enforce a tax upon for such purposes, and in so doing visited an act of injustice upon the few for the benefit of the many. But, these charters of 1848 possessed the virtue of uniformity. No one company could complain of being deprived of advantages that its neighbor possessed.

At the session of the Legislature, 1849, nine more of these companies were chartered, viz: the Ohio Trap Rock, Minesota, North West, Siskowiet, Isle Royal, Native Copper, Phoenix, Union, and Pittsburgh and Isle Royal Mining Companies. Six of these are, in all things material, in uniformity with those chartered in 1848; but in the charter of the Ohio Trap Rock, when we come to the regulation of the one per

centum to be paid into the State Treasury, we find it to read, "*which tax shall be in lieu of ALL taxes on the PERSONAL and REAL estate of said company.*" Next, on examining the charter of the Minesota, we read, "*and said tax shall be in lieu of all other STATE taxes on the PERSONAL property of said company, and in lieu of all other STATE taxes on the REAL estate of said company.*" The first of these two charters was approved on the 5th of March, and the latter on the 7th of March. I should here have thought it but reasonable to infer that the discrepancy was caused by clerical error, but from the fact that on reaching the remaining company unaccounted for, the Native Copper Company, approved March 31, I find it reads, "*which tax shall be in lieu of the STATE tax upon the PERSONAL and REAL estate of said company.*" Thus it would seem that the Ohio Trap Rock is to be relieved from all other taxes whatever, whilst the Minesota and the Native Copper, although paying the same per centage, are only to be relieved from further State taxes.

Next, sir, are the charters granted at the session of our Legislature, 1850. This year there were eighteen companies chartered—the Forest, Piscataqua, Swamscot, Copper Harbor, Cleveland Iron, Eureka, Detroit and Lake Superior, Hungarian, Adventure, Iron City, Carp River Iron, Merchants, Chesapeake, Cape, Aztec, Ripley, Ridge and Peninsula Mining Companies. The three first are measurably on the plan of the twenty-one of 1848; and the six of the nine of 1849, except that in lieu of the one per centum to be paid into the State Treasury, *one-half per centum is substituted*, saying "*said tax to be in lieu of all other State tax upon the real estate and personal property of said company: Provided, That nothing contained in this section shall be so construed as to release real estate and personal property from taxation for county and township purposes.*" In the remaining fifteen are several important changes. The section regulating the corporate succession, the capital stock, and allowing the companies to hold such real and personal estate as their business may require, to an amount not exceeding the capital stock, has added to it, "*but said company shall not hold more than six hundred and forty acres of land in legal subdivisions in the upper peninsula, except a ware-house, lot and office, and such as may*

be necessary for smelting purposes." The amount fixed upon to be paid into the State Treasury is *one per centum*, and "*said tax shall be in lieu of all State taxes upon the real and personal property of said company.*"

From "An act authorizing the State Treasurer to refund certain moneys to the treasurers of the counties of Houghton, Schoolcraft, Marquette and Ontonagon," approved April 2, 1850, the same time of the approval of the mining bills, in which it is enacted "that the State Treasurer be, and he is hereby authorized to refund and pay over unto the treasurer of the county of Houghton, one-half of all moneys collected in the counties of Houghton, Schoolcraft, Marquette and Ontonagon, in pursuance and by virtue of any act of incorporation creating any mining company in any and each of said counties," it may be inferred that the Legislature, in the passage of the first three named acts of 1850, intended to equalize the taxation by dividing between the State and the Counties equally, the per centage heretofore and hereafter to be received from companies exempt from taxation on their personal property; and that, by some misunderstanding between the two houses, or changed policy, the fifteen acts appear in the shape they do. The truth is, that it was the original intention of both houses to exact in the new charters but one-half per centum for the State, leaving them open to county and township taxes—thus refunding the one-half paid in by the companies at one per cent, and placing them upon an equality. But, sir, the wisdom or the vanity, the zeal or the cupidity of the chairman of the committee on incorporations in the Senate—a Senator ignorant of the ground he was treading—on the eve of the adjournment, was the true cause of the confused state of these acts—of depressing the privileges of one set of men, whilst elevating those of another, in direct hostility to the constitution. On the three bills emanating from the Senate, he could favor one-half per cent, and on the fifteen coming from the House, he would exact the whole.

It appears, sir, in the session laws of 1848, that by the provisions of "An act to organize four counties in the Upper Peninsula, and define the boundaries of the same," the counties of Marquette, Hough-

ton, Schoolcraft and Ontonagon, were united and set off into a judicial district, the powers in which were to be held and exercised by a district judge, with the jurisdiction of a circuit court in the several organized counties in this State, as well in criminal proceedings as in civil cases and in equity. By the records in the office of the Secretary of State, an election took place under this act, on the first Tuesday of July, 1848, at which a district judge and other officers were chosen, and the organization of this judicial district perfected. A prosecuting attorney and notaries public were appointed by the Governor. Courts have been held as designated by the act; grand juries summoned; petit juries empannelled, and several convictions had in criminal cases. Yet it is a fact that no provision has been made to pay this district judge, the prosecuting attorney, sheriff, clerk and other officers of the court, nor the grand and petit jurors; that the district is as yet destitute of a court house, and furnished only with a temporary jail; that although each township has its supervisor, assessors, and other township officers, and the board of supervisors hold their meetings, the difficulties which present themselves in the history of the mining charters, are an almost insurmountable obstacle to the levying of an equitable tax. So both township and county expenses must be made up by commutation amongst individuals, or be accumulating as a debt.

Now, sir, the mining companies constitute the great bulk of the inhabitants, and are the owners of the property which should have been taxable for county, township and highway purposes. But comparatively few of them have as yet the title to their location from the general government, and of course have no real estate to be taxed. They pay their one per centum on their capital into the State Treasury, and their personal property is excused from further taxation by their charters. The majority of the stockholders who may live in the Eastern States, far removed from the scene of action, subscribe for their stock or invest their money with the understanding that the amount of their tax is fixed and unalterable. Each mining company is a community—a village—separate and independent of its neighbors. The few farmers, and the mechanics, were

chants, hotel keepers and others, who live at the landings, and are separated from these companies, are but few in numbers. It would be manifestly unjust to make these pay for all the crime and poverty and misfortune inseparable from great communities, or to expect them to build the roads and bridges necessary for the accommodation of the masses. Instance, there are probably at the Boston and Pittsburgh mines, at least four hundred souls; and at the North American, more than two hundred. These companies, with the Albion, worked and inhabited by less numbers, are all within the township of Houghton, of which the mouth of the Eagle river is the landing, or the point at which they ship their copper and receive their supplies. Should the entire expense for township purposes fall upon the taxable inhabitants at the landing place? Certainly not. Upon the companies? They pay their one per centum and cut their own roads. It is enough. The Pittsburgh and Boston company alone, as appears by the books of the State Treasurer, pays in annually upwards of \$1,250. If taxed, as their charter permits, for county and township purposes, on their real estate, it would be but upon a mere trifle of the \$125,000 on which they are paying this one per centum. Upon the same principle, it may be asked whether the inhabitants of the few landing places, a few farmers, and the agricultural township of L'Ance, should pay the taxes of the mining townships of Copper Harbor, Eagle Harbor, Houghton, Portage, Algonquin and Isle Royal, composing the county of Houghton; or that the township of Ontonagon, which contains no mines, should pay the expenses of the townships of Minesota and Pe-wa-be, in the county of Ontonagon, where there are more than a dozen companies in active operation, and probably not an inhabitant disconnected with them!

"The principles which have authorized and sanctioned numerous grants to the States, for turnpikes, canals and railroads, through, or leading to, the public domain, designed to promote the sales of government lands, to facilitate the settlement of a new country, to develop new resources of public wealth, and to open new fields for enterprising labor," never appear to have been applied to this section of our coun-

try. The General Government, though repeatedly appealed to for appropriations to build a ship canal around the Falls of the Saut Ste Marie, and for Harbors and other public works on Lake Superior, appears to have paid little attention to their wants and requirements, more than to obtain exorbitant prices for their mineral lands. And although the United States have realized nineteen millions of dollars in the sales of lands in this State, over and above all expenses, and have upwards of twenty-four millions of acres still unsold and unappropriated, they have never rendered service to the upper peninsula by donations; and the little the State has at any time received from the General Government, has been appropriated for improvements in the lower peninsula.

I have alluded, sir, to the action of both the General Government and to that of the State of Michigan. My object is to show you that the first has done little or nothing except to oppress and speculate upon this section of our country. She oppressed us in 1837, when this State made an appropriation and commenced cutting a ship canal across the Portage at the Saut Ste Marie, by driving the contractors from the work, at the point of the bayonet. And from that day to this, though annually importuned, she has refused or neglected, either to build this work, grant an appropriation in lands for it, or to allow us the right of way. Not but there has been liberal legislation on the part of the U. S. Senate, nor that there has been anything wanting on the part of our Representatives in Congress. At each successive session for the last ten years, I believe, the Senate have passed a bill making appropriations for the building of the proposed canal, which has as often failed in the House of Representatives. Failed, firstly, perhaps, because of the paramount importance of the North-Eastern boundary question. Secondly, to make way for the final adjustment of a scheme to collect the public revenue and regulate the deposits. Thirdly, a new tariff system. Fourthly, the settlement of the Oregon question, followed by the outbreak of the Mexican war. Fifthly, the Wilmet Proviso, and so on, *ad infinitum*.

The General Government, by creating false issues, and making professions, she

never intended to fulfill, has deceived and trifled with her citizens. For what should have induced the rush for permits and locations in the mineral region but—in addition to the discovery of mineral wealth, Fort Wilkins being built at an enormous expense, now abandoned as useless, and going to ruins—the appointment of agents, geologists and surveyors, and promises of the speedy accomplishment of the canal, the creation of harbors, the clearing of others, the erection of piers and lights, and the establishment of roads—in brief, the opening of avenues of ingress and egress? More, these enterprising men were not only permitted to, but encouraged, in 1844 and '45, in running out and marking their own boundaries, some for tracts of three miles square, and others for one mile square, as I have before stated. The lands were not then in market—they were not even surveyed—but yet the Secretary of War, Mr. Marcy, was issuing permits without law or precedent to sustain him, and giving tone to the promises made by the officers of government under his authority. No sum was named for which these lands were to be sold, and what other could the holders of permits dream of than the minimum price? The act of Congress of March, 1847, however, with its extravagant demands, and without the fulfillment of a solitary pledge, dissipated any such hope; and when, in 1848, after a bungling attempt at a geological survey, without any satisfactory report, some of these lands were placed in market, it found a vast majority of the energetic frames of men who had toiled, and hoped, and struggled against all privations and hardships for the four or five preceding years, had begun to give way—found them broken in purse and crushed in spirit, by delays and false allurements, and compelled to abandon the field of their enterprise—to surrender the fruits of their explorations, and their valuable discoveries, to the more fortunate and wealthy. Where to them, now, was their Ste Marie's canal? Where the clearing of their fine natural harbors, the erection of piers, the establishment of lights? Where their appropriation for roads, or for even a bridle path? Echo, from yonder mountain cliffs of mineral bearing rock, answers, where? The shrieking winds, bowling over the great inland ocean, at their base,

catch up that echo and ring over that wild wilderness of waters, where? where?

Government deceived herself—deceived her citizens—turned jockey and speculator; and she has sold in all of that immensely rich domain of 20,000 square miles, and of more than 9,000,000 of acres, about 30,000 acres, and received as rents about the same number of thousands of dollars. So much for becoming a great mining proprietor, with tenants working on shares, and deceptive promises; and then, sick of her speculation, offering to sell out at double and quadruple the minimum rates. Yes, to sell that which ten years ago she pronounced so worthless that it would not pay the survey, for five dollars, instead of ten shillings, the acre.

And now, Mr. President, let me ask what has the State of Michigan done to foster, protect and advance her own interests? Sir, if she has not been equally patronizing to this iron right arm of hers, with the giant frame and massive copper heart, it has been no fault of hers. She has hampered us by her legislation. She, with her grand coadjutor, the General Government, has deprived us of the possession of property for taxation, and then denounced us as unworthy because of not paying a certain quota of tax into the State Treasury. She has instructed us how to organize our counties, establish our courts of justice, and place ourselves upon the civil calendar of counties of the lower peninsula, and then, in the same breath, stripped us of all means, except those of commutation amongst our individual selves, to carry out her provisions. She has made laws which it was beyond the mortal strength of man to obey, and then breathed the curse of censure upon us as pure, as honorable, as capable, and as high-minded a community as the Union can boast, for a failure in their final accomplishment. She well knew that she did not own an acre of land in the mining region, save primary school lands, and that that region of country was not indebted to her to the amount of one solitary dime. She knew that the only owners of property were the General Government and incorporated companies.

And, in chartering these latter, has she not, to get that one per centum—not the six or ten per centum the United States have got and are still demanding from

those who have not purchased their lands—has she not, I say, excepted all personal property from any further taxation, whatever, and all other taxation for State purposes, on real estate? How could her legislators suppose we were going to pay the expense of the district court they ordered established for the four upper counties, and which has been in existence the last two years? Did they make any arrangement for the payment of that judge, prosecuting attorney, sheriff, clerk, grand and petit jurors, or for a court house and jail? None! What provisions did they make for roads and bridges, or for the support of the poor? None!

And yet, sir, this Convention is on the point of appropriating this one per centum annually paid into the State treasury, to "pay the interest upon the primary school, university and other educational funds, and the interest and principal of the State debt!" Yes, sir, when you have sold, up to this year, 125,976 78-100 acres of primary school lands, for \$715,486 57, and annually distributed the interest thereof in the lower peninsula, without our having received one cent of it—when you have sold, up to the same time, 20,683 34-100 acres of university lands for \$243,679 08, and appropriated the interest without our deriving the benefit of a farthing—when you have had expended in money by the general government, for roads and other improvements in the lower peninsula, \$645,724 13, whilst we have had nothing; and when you have taken all the internal improvement lands, and distributed them amongst the counties of the lower peninsula, without allowing us an acre. And let us see how and for what purposes:

Appropriations of Internal Improvement Lands:

Date.		Acres.
1843.	St. Joseph River,	5,000
"	Clinton & Kal. Canal,	16,000
"	Central Rail Road,	150,000
1844.	Flint River,	5,000
"	Central Rail Road,	64,000
"	Clinton & Kal. Canal,	2,000
"	St. Joseph River,	10,000
"	Bridge of Grand River at Grand Rapids,	6,000
1845.	Palmyra and Jackson Rail Road.	10,000
"	Clinton & Kal. Canal,	17,250

Date.		Acres.
1845.	Central Rail Road,	20,000
1846.	Central Rail Road,	20,000
"	Southern Rail Road,	1,500
"	Bridge, Cass River,	3,000
"	Bridge, Grand River, at Lyons,	2,000
1847.	Grand Rapids Canal,	25,000
"	St. Joseph River,	7,000
"	Clinton & Kal. Canal,	5,000
1848.	Holland Colony,	7,000
"	Bridge, Muskegon River,	3,000
"	Bridge, Flint River,	5,000
"	Clinton River,	2,500
"	Detroit & Grand River Road.	10,000
"	Detroit and Saginaw R.,	2,000
"	Paw Paw River,	10,000
"	Paw Paw River,	10,000
"	Barry. Eaton and Allegan Roads,	4,000
"	Hastings & Battle Creek,	2,000
"	Corrunna and Bad River,	7,000
"	River Raisin,	5,000
"	Battle Creek, Bellevue, and Charlotte Roads,	5,000
"	Livingston and Genesee Roads,	3,000
"	Road from St. Joseph to La Grange,	3,000
"	Bridge and Causeway at Grand Haven,	2,000
"	Kalamazoo River,	4,000
"	Roads in Saginaw and Tuscola,	3,000
"	Detroit and Grand River Road,	7,000
"	St. Clair & Almont Road,	7,500
"	Road in Kalamazoo Co.,	2,000
"	Pontiac and Grand River,	4,000
"	Roads in Clinton Co.,	6,000
"	Roads and Bridge, Ingham Co.,	5,000
"	Eaton Rapids and Michigan Road,	3,000
"	Roads in St. Joseph and Cass Co.,	7,000
"	Bridge, Kalamazoo River,	2,000
"	Jackson and Mich. Road,	10,000
"	North Wagon Road,	20,000
"	Roads in Branch Co.,	5,000
"	do Hillsdale,	5,000
"	do Livingston and St. Clair,	3,000
"	Roads, Albion and Eaton Rapids,	2,000

Date.	Acres.
1848. Monroe and Dexter Road,	3,000
" Roads in Lenawee,	5,000
" Bridge in Pontiac,	1,000
" Draw-bridge over River Rouge,	1,000
" Road, Holland Colony,	5,000
" do Kent County,	3,000
" do Ottawa County,	2,000
Total,	555,315

Statement of Moneys expended by the General Government for improvements in the State of Michigan:

For constructing pier at La- Plaisance Bay, Mich.,	\$19,603 00
Improving harbor, mouth of River Raisin, Mich.,	110,000 00
Improving harbor, St. Jo- seph, Mich.,	131,113 00
Road from Detroit to Fort Gratiot,	48,000 00
Road from Detroit to Grand River,	53,500 00
Road from Detroit to Chica- go,	37,000 00
Road from Detroit to Sagi- naw bay,	60,000 00
Road from Sheldon's, on the Chicago road, to St. Jo- seph river, Mich.,	20,000 00
Road from Niles to mouth of St. Joseph river,	10,000 00
Road from Clinton to the Rapids of Grand River,	8,000 00
Road from La Plaisance Bay to the Chicago road,	40,608 76
Road from Port Lawrence to Adrian,	10,000 00
Road from Vistula to Indi- ana State line,	10,000 00
Road from the North West- ern boundary of Ohio to Detroit,	20,000 00
Road to connect the Detroit and River Raisin, with the Maumee & Sandusky r'ds,	12,000 00
Road from Detroit to Mau- mee,	5,900 00
	\$645,724 83

Aye, Mr. President, after having received the benefit of all the expenditures and

appropriations made by the General Government, having involved the State in debt, the lower peninsula calls upon us, in our infancy, to contribute—no, would *force* us to pay tribute to relieve her from an indebtedness we have had no hand in creating. Demand of us, after tying us hand and foot by legal enactments, to surrender our claim to any portion of the specific taxes we are paying into the Treasury. Sir, highway robbery would be preferable to this legalized plundering of your fellow-citizens. Let me appeal, sir, to that sense of justice which distinguishes members of this honorable Convention. Let me conjure them to pause and reflect before they put it out of the power of the Legislature to render us some little restitution for the wrongs we have received at their hands. Let us have at least one-half of this one per centum for county and township purposes. Do not understand us as asking alms or craving that which is not morally and justly our own. We stand upon this floor to demand the rights of our constituency, and no sickening show of sympathy, nor artificial display of generosity will be received in exchange for them.

The hardy pioneers of the upper peninsula, who have encountered and overthrown obstacle after obstacle, and broken down barrier after barrier, are your brothers—your sons; they, too, are of the lower peninsula. They are delving deep through the rocky beds of mother earth, disemboweling and upheaving her mineral wealth, to enrich you, to aggrandize our State, and to contribute to the wealth and the reputation of our glorious Union. We eat of your bread, but we pay you for it by the sweat of our brows; and all we ask is, that you extend to us the hand with the same warmth of friendship and encouragement we extend ours to those who come amongst us—that you will except us from this wholesale appropriation; and when the time comes, that you will aid in placing us on the same footing, as near as may be, with the counties of the lower peninsula. Do these things—do us justice—and with renewed energies you will find us standing firmly, side by side with you, on the platform of equality; but, refusing us, we will respectfully petition you to aid us with the general government, in being set off as an independent territory.

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ERRATA.

Page 157, 2d column, line 28 from top, for "parties" read "past time."
Page 746, 2d column, line 9 from top, for "Boccacio" read "Beccaria."

